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**TRANSCRIPT OF RECORD**

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**Supreme Court of the United States**

**OCTOBER TERM, 1938**

**No. 142**

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HUGH PIERRE, PETITIONER.

VS. .

STATE OF LOUISIANA

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ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE  
OF LOUISIANA

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**PETITION FOR CERTIORARI FILED JUNE 22, 1938.**

**CERTIORARI GRANTED OCTOBER 17, 1938.**

# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1938

No. 142

HUGH PIERRE, PETITIONER,

vs.

STATE OF LOUISIANA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE  
OF LOUISIANA

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**SUPREME COURT OF THE STATE OF LOUISIANA**

**No. 34742**

Filed January 15th, 1938. *Louis P. Niklaus*, Dpy. Clerk

[fol. 20] IN TWENTY-FOURTH JUDICIAL DISTRICT COURT OF  
LOUISIANA, PARISH OF ST. JOHN THE BAPTIST

THE STATE OF LOUISIANA,  
Twenty-Fourth Judicial District, ss:

INDICTMENT FOR MURDER—Filed January 18, 1937

The Grand Jurors of the State of Louisiana, duly empaneled and sworn, in and for the body of the Parish of St. John the Baptist, in the name and by the authority of the said State, upon their Oath, present: That one Hugh Pierre, late of the Parish of St. John the Baptist, on or about the twentieth (20th) day of October in the year of Our Lord, One Thousand Nine Hundred and Thirty-Six (1936) with force of arms, in the Parish of St. John the Baptist, aforesaid, and within the jurisdiction of the Twenty-Fourth Judicial District Court of Louisiana, in and for the Parish of St. John the Baptist, aforesaid, then and there being, murdered one Ignace Rousselle, contrary to the form of the Statute of the State of Louisiana, in such case made and provided, and against the peace and dignity of the State.

(Sgd.) Jno. E. Fleury, District Attorney of the  
Twenty-Fourth Judicial District.

[File endorsement omitted.]

Endorsement on the Front on said Indictment: No. 62. The State of Louisiana vs. Hugh Pierre. Indictment for Murder. January 18th, 1937. A True Bill. Albert Millet, Foreman of the Grand Jury, Parish of St. John the Baptist, La.

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**SENTENCE**

7/29/37.—Sentence to suffer hanging by the neck until he be dead, dead, dead.

(Sdg.) L. Robert Rivarde, Judge.



## Witnesses :

J. F. Abadie.  
 M. A. Perret.  
 Dr. J. R. Fernandez.  
 Leopold Ory.  
 Michel Ory.  
 Robert Desroche.

Sheriff Wm. Duhe.  
 Alfred Ory.  
 Albin St. Pierre.  
 Emile Hempel.  
 E. J. Berthelot.  
 Alcie Fabre.

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 VERDICT

Endorsement on the Reverse of said Indictment:

July 20th, 1937. Guilty as Charged.

(Signed) Leon A. Picou, Foreman.

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[fol. 21] IN TWENTY-FOURTH JUDICIAL DISTRICT COURT,  
 PARISH OF ST. JOHN THE BAPTIST, STATE OF LOUISIANA

No. 62

STATE OF LOUISIANA

VS.

HUGH PIERRE

MOTION TO QUASH—Filed January 26, 1937

Now into Court comes Hugh Pierre, defendant herein through his undersigned attorney, Maurice R. Woulfe, and moves this Honorable Court to quash the Indictment herein against him, and to hold the same for naught, on the following grounds and for the following reasons to-wit:

1

That mover is indicted herein for murder of a white man or person of the white race.

2

That mover is a member of the negro race.

3

That the trial of mover will be held in the Parish of St. John the Baptist, Louisiana, and that at least one-third

the population of said Parish consists of negroes or members of the colored race.

## 4

That the general venire box for the Parish of St. John, did not contain the names of any negro- at the time the panel for the Grand Jury was drawn, which returned the Indictment herein against mover; that the officers of the law in charge of said matter not only failed to place in said venire box the names of any negroes qualified to serve as Grand or Petit Jurors but deliberately excluded therefrom the names of any negroes qualified to serve as Grand or Petit Jurors, which action on the part of said officers is a denial of due process of law, and is a violation of movers constitutional rights as granted him by the Constitution of the State of Louisiana, of 1921, and specially the 14th Amendment of the Constitution of the United States of America.

## 5

Mover further shows, that he is informed and believes and so avers that there has not been a negro on the Grand Jury or Petty Jury of said Parish for at least 20 years; that the officers of said Parish have systematically, unlawfully and unconstitutionally excluded negroes from the Grand or Petit Jury in said Parish during this period of time; that this exclusion of negroes as Jurors in this Parish is done solely and only because of their race and color and results in a denial to mover of due process of law and the equal protection of the law guaranteed him under the Constitution of the State of Louisiana of 1921, and the Constitution of the United States of America.

Wherefore, mover prays that the Indictment herein rendered against him and the entire Grand Jury or Petty Jury Venire and Panel be quashed, annul-ed and set aside and held for naught and for further orders as may be necessary in the premises.

(Signed) Maurice R. Woulfe, Attorney for Defendant.

*Duly sworn to by Hugh Pierre. Jurat omitted in printing.*

4  
[fol. 22] IN TWENTY-FOURTH JUDICIAL DISTRICT COURT,  
PARISH OF ST. JOHN THE BAPTIST

[Title omitted]

JUDGMENT ON MOTION TO QUASH—Filed January 27, 1936

The Defendant having filed a motion to Quash the Grand Jury as well as the Petit Jury, selected and drawn for the January 1937 criminal term of court, attacking same on the ground that the accused being a member of the colored or Negro race would not receive a fair and impartial trial in the Parish of St. John the Baptist, because the Jury Commissioners of the Parish of St. John the Baptist failed and neglected to place sufficient members of the Negro race upon the Grand as well as the Petit Jurors, was, tried, argued and submitted to this Court for decision.

In passing upon this question the court is of the opinion that the Constitutional rights of the defendant is not affected by reason of the fact that persons of the Colored or African race are not placed on the Grand Jury, because that August Body investigates and inquires into the criminal matters placed before it. They as a general rule hearing only the evidence which may be placed before them through the States Representatives and cannot affect any accused because in the event of a true bill presenting the accused for trial and a trial is had the Court is by law compelled to charge the Jury and which charge has been invariably given to the Jury that the mere presentment of an indictment is not evidence of guilt. In other words it simply informs the Court of the commission of a crime and brings the accused before the court for prosecution.

Therefore in so far as the attack upon the Grand Jury by the accused is concerned the Court is of the opinion that he is not entitled to the relief prayed for and therefore his motion attacking the indictment on the ground above set forth are denied and overruled.

Now in so far as it affects the drawing of the petit jury, by the Commissioners, in, that, they failed to place a sufficient number of the names of people of the colored race in proportion to the colored population of the Parish of St. John the Baptist, the Court is of the opinion, in the following decision the Supreme Court of the United States, *the* the motion to quash the petit jury venire should be maintained and therefore,

It is Ordered, Adjudged and Decreed, that in so far as the drawing of the Petit Jury by the Commissioners is concerned that the same be and is hereby quashed and the entire [fols. 23-27] Petit Jury discharged without date.

Judgment, Rendered, Read and Signed in open Court this 27th day of January 1937.

(Signed) L. Robert Rivarde, Judge.

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[fol. 28] IN TWENTY-FOURTH JUDICIAL DISTRICT COURT,  
PARISH OF ST. JOHN THE BAPTIST

[Title omitted]

BILL OF EXCEPTION No. 1

Be it remembered that on this 26 day of January, 1937, in Open Court, in the 24th Judicial District Court for the Parish of St. John the Baptist, State of Louisiana, before the Hon. L. Robert Rivarde, presiding in said Court, the said defendant being called for arraignment in the above numbered and entitled cause of the State of Louisiana vs. Hugh Pierre, and before arraignment the said defendant duly filed his Motion to Quash the Indictment herein rendered against him, and the Grand Jury and panel which returned and found same, as well as the Petit Jury, for the grounds and reasons stated in said Motion to Quash, and did produce and offer testimony in connection therewith and did prove at the trial of said motion to Quash that negroes as persons of color had been purposely excluded from the Grand Jury Venire and Panel which returned said indictment against defendant on account of their color and race, and in violation of defendants Constitutional rights guaranteed him under the Constitution of the State of Louisiana of 1921, and the 14th Amendment of the Constitution of the United States of America; that after the close of said testimony and argument on said Motion to Quash, the Court refused to grant defendant's Motion to Quash the said indictment herein rendered against him, and the said Grand Jury Venire and Panel and overruled the same, and sustained part of the Defendant's Motion to Quash, in that the Court quashed the Petit Jury Venire and gave his judgment in writing, to which ruling the Trial Court defendant then and there duly excepted to be the ruling and judgment

of the Court and reserved this, his Bill of Exceptions, making the indictment, the Grand Jury Venire and panel and the proce verbal of the Jury Commissioners and the Petit Jury Venire, the minutes of the Court, the motion to Quash and the testimony taken on the trial of said motion to Quash and the Court's judgment handed down on the 27th day of January, 1937, part of this, his bill of exceptions, which he now tenders for signature and prays that the same be allowed and signed accordingly.

(Signed) L. Robert Rivarde, Judge.

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[fol. 29] IN TWENTY-FOURTH JUDICIAL DISTRICT COURT,  
PARISH OF ST. JOHN THE BAPTIST

BY THE COURT—PER CURIAM TO BILL OF EXCEPTION No. 1

I maintained the motion to quash the petit jury panel for the reason that there were no negroes called to serve upon that jury, but I refused to maintain the motion to quash the Grand Jury because there were no negroes sitting as members of the Grand Jury which returned the indictment.

My reason for quashing the petit jury was in line with the Scottsboro case, in which the Supreme Court of the United States reversed the verdict of the jury and the judgment of the lower court, on the ground that the accused was deprived of his constitutional rights, by reason of the fact that there were no negroes drawn on the petit jury panel to try the case. Hence, on this point, he can have no cause for complaint, because this part of the motion was sustained.

In so far as the Grand Jury Panel is concerned, the law gives the Jury Commissioners the right to select citizens without the necessity of drawing them, as in the case of Petit Jurors (Code of Criminal Procedure, Art. 180), from the jury box. and I refused to sustain the motion to quash the Grand Jury on the ground alleged, for the reason that if, for instance, we take a manslaughter case, which is a felony punishable by imprisonment in the penitentiary not exceeding twenty years, because the District Attorney who files an information charging a negro accused with the crime of manslaughter happens to be a white official, this fact would be no ground for quashing an information, for if it were, then every time a white District Attorney filed an

information against a negro accused of any felony whatsoever, the information would be open to a motion to quash, because a negro happened to be informed against by a white District Attorney.

For the same reason, a Grand Jury composed of white men would not deprive the accused of his constitutional rights, by merely returning an indictment, which only has the effect of presenting the accused to the bar for trial, but is no evidence of his guilt. Hence, I consider that this bill is untenable in so far as this part of the motion to quash is concerned, and I refused to quash the same.

After the motion to quash had been sustained in part, as to the petit jury, during the January, 1937, term of this court, the case was tried in the July 1937, term of court, at which time a jury panel composed of both whites and blacks was drawn.

A jury of twelve men to try the case was obtained from a regular panel of thirty names, of which twenty-eight responded for service, and a tales jury panel of fifty names of which thirty-two responded. Among the both panels, there were four negroes called for service. The first negro juror stated that he did not think he would understand sufficiently well to pass intelligently upon the issues involved; the second negro was challenged by the State, and the two others who were called, each was excused for cause, because they were both opposed to capital punishment.

[fols. 30-36] I consider both the regular panel and the tales panel jury drawn for service which tried the case, were in strict accordance with the constitution and laws of the State of Louisiana, and in accord with the decision of the Supreme Court of the United States in the Scotsboro case.

The fact that no negroes actually served upon the jury of twelve, was not due to any particular reason, either on the part of the State, or the accused, but three of the four negroes disqualified themselves for cause, and the fourth was challenged by the State, peremptorily, which the State had a right to do, and for that reason I consider this bill untenable.

(Signed) L. Robert Rivarde, Judge.

Aug. 26th, 1937.



[fol. 37] UNITED STATES OF AMERICA, STATE OF LOUISIANA,  
PARISH OF ST. JOHN THE BAPTIST

MINUTES OF PROCEEDINGS

Be it Known, That on the 29th day of the month of December in the year of our Lord one thousand nine hundred and thirty-six and of the Independence of the United States of America the one hundred and sixty first,

The Jury Commission in and for this Parish of St. John the Baptist, aforesaid met at the Clerk's office at the Court House of this Parish, after having been duly notified by the Clerk of Court for the purpose of supplementing the General Venire List and to select a Grand Jury and to draw a Petit Jury Panel for the week beginning Monday, January 18th, 1937, and a Petit Jury Panel for the week beginning January 25, 1937.

Present: Albert Vicknair, Arthur Duhe, Edward J. Berthelot, Sidney G. Fauchaux, and H. R. Martin, Clerk of Court.

Absent: Albert Montegut, although duly notified.

And the said Jury Commission in the presence of Messieurs Felix Berthelot and Albert Berthelot, competent witnesses, competent to read the English language and residents of this Parish and duly summoned by the Clerk of Court for said purpose, and after having been furnished by the Clerk of Court with a list of Grand Jurors and those who have served as Petit Jurors since the previous drawing have struck there from the names of such as have served as well as those who have removed from the Parish.

And the said Jury Commission in the presence of said witnesses have supplemented the original list and the names of the ballots in the box with the names of fifty competent men from the qualified Jurors of this Parish, so as to keep the number of names in the General Venire Box at three hundred names, which names were written by the Clerk of Court on a separate slip of paper by the Clerk of Court, to-wit:

No.	Names	Ward No.	No.	Names	Ward No.
1.	Roger Burch.....	1st	11.	Orto Morse.....	3rd
2.	Albin Roussel.....	1st	12.	Henry Burch.....	3rd
3.	Fernand Reynaud.....	1st	13.	Maurice Tassin.....	3rd
4.	M. S. Gaudet.....	6th	14.	Sidney Roussel.....	2nd
5.	Romain Tregre.....	6th	15.	Philip Chauvin.....	2nd
6.	Fred Duhon Sr.....	6th	16.	L. D. Perret Jr.....	2nd
7.	Alceste Schexnayder.....	5th	17.	Joe Milioto.....	4th
8.	W. J. Duhe Jr.....	5th	18.	Gregole Marino.....	4th
9.	Albert Millet.....	5th	19.	Camille Perilloux.....	4th
10.	Paul Dufresne.....	3rd	20.	Edgard Haydel.....	4th
21.	Luc Songy Jr.....	3rd	22.	Sam Millet.....	6th
23.	Antoine Aubert.....	3rd	24.	Emile Oncale.....	4th
25.	Whitnet Becnel.....	2nd	26.	Joseph Bossier.....	4th
27.	Arnaud Tassin.....	1st	28.	David Weber.....	2nd
29.	Sam Amedee.....	6th	30.	Henry Marino.....	4th
31.	Robert Dufresne.....	3rd	32.	Wilfred Duhe Sr.....	5th
33.	Sidney Borne.....	3rd	34.	Peter Williams.....	5th
35.	Willie Benoit Schexnayder.....	6th	36.	Percy Keller.....	5th
37.	Geo. Jacob.....	4th	38.	Maurice St. Pierre.....	1st
39.	Emile Dutreix.....	2nd	40.	Charles LeBlanc.....	6th
41.	Lionel Alexander.....	4th	42.	Leo Barbier.....	6th
43.	Samuel Jacob.....	5th	44.	Murphy Torres.....	6th
45.	Elmer Hebert.....	5th	46.	O. J. Becnel.....	2nd
47.	William Millet.....	6th	48.	Charlie Milioto.....	4th
49.	Cleveland Perilloux.....	4th	50.	Claude Songy.....	2nd

And the said Jury Commission having selected the above fifty names and having written the said names on a separate slips have placed the said slips containing said names in the General Venire Box.

Immediately thereafter the Jury Commission have selected from the General List the names of twenty citizens to be subject for duty as grand jurors as provided by law, to-wit:

No.	Names	Ward No.	No.	Names	Ward No.
1.	Edgard Haydel.....	4th	2.	Camille Perilloux.....	4th
3.	George Marino.....	4th	4.	Joe Milioto.....	4th
5.	L. D. Perret Jr.....	2nd	6.	Philip Chauvin.....	2nd
7.	Sidney Roussel.....	2nd	8.	Maurice Tassin.....	3rd
9.	Henry Burch.....	3rd	10.	Orto Morse.....	3rd
11.	Paul Dufresne.....	3rd	12.	Albert Millet.....	5th
13.	W. J. Duhe Jr.....	5th	14.	Alceste Schexnayder.....	5th
15.	Fred Duhon Sr.....	6th	16.	Romain Tregre.....	6th
17.	M. S. Gaudet.....	6th	18.	Fernand Reynaud.....	1st
19.	Roger Burch.....	1st	20.	Albin Roussel.....	1st

[fol. 38] And the said names of persons so selected have been written on slips of paper by the Clerk of Court in the presence of the Jury Commissioners and witnesses the said slips were placed by the said Jury Commission in an envelope which was sealed and endorsed, List of Grand Jurors.



And the slips contained in the General Venire Box having been well mixed by Mr. Edward J. Berthelot, one of the members of the said Jury Commission in the presence of the others and the witnesses named, has drawn from said Venire Box one at a time, the following thirty names of persons to serve as Petit Jurors for the week beginning Monday January 18, 1937, to-wit:

No.	Names	Ward	No.	Names	Ward
1.	Arthur J. Hymel.....	6th	2.	Willie Melancon Jr.....	4th
3.	Oliver Oubre Jr.....	5th	4.	Herman Weber.....	2nd
5.	Olide Ocmard.....	5th	6.	Simon Vicknair.....	4th
7.	Oliver Duhe.....	5th	8.	Santo Zeto.....	4th
9.	Andre Borne.....	1st	10.	Dr. M. Cognevich Jr.....	1st
11.	Apolinar Rome.....	6th	12.	Arthur Aubert.....	3rd
13.	Louis Maurin.....	5th	14.	Albert J. Berthelot.....	1st
15.	Noian Badeaux.....	6th	16.	Ruffin Leroux.....	2nd
17.	Ruffin Lassere.....	6th	18.	Edward F. Millet Sr.....	5th
19.	Sam Millet.....	6th	20.	Antoine Aubert.....	3rd
21.	Leo Barbier.....	6th	22.	Joseph C. Fauchaux.....	2nd
23.	Ellis Cambre.....	5th	24.	Edgard Weber.....	2nd
25.	Paul Carmello.....	5th	26.	C. Babin.....	3rd
27.	Joseph Boessier.....	4th	28.	Stanislaus Hymel.....	2nd
29.	Martin C. Ruiz.....	6th	30.	Faustin Abadie.....	1st

And the said Jury Commission has placed the thirty slips so drawn in an envelope which was sealed and endorsed, Petit Jurors for the week beginning Monday, January 18, 1937.

And the said Edward J. Berthelot, in the presence of the other commissioners and the said witnesses has drawn from the General Venire Box, one at the time, thirty names of persons to serve as Petit Jurors for the week beginning Monday, January 25th, 1937, to-wit:

No.	Names	Ward	No.	Names	Ward
1.	John D. Reynaud.....	1st	2.	Leonard Millet.....	1st
3.	Ferducie Millet.....	6th	4.	S. D. Brown.....	5th
5.	Emile Tassin.....	3rd	6.	Sidney Gaudet.....	3rd
7.	J. A. Blanchard.....	4th	8.	Albin Roussel.....	2nd
9.	Ellis J. Reine.....	4th	10.	Emile Dutreix.....	6th
11.	Folger Tracclair.....	6th	12.	Robert Casenave.....	3rd
13.	Murphy Torres.....	6th	14.	Albert Becnel.....	2nd
15.	Ed C. Roussel.....	2nd	16.	Roy Peranio.....	6th
17.	Harry Badeaux.....	6th	18.	Raphael Webre.....	2nd
19.	Tangan Kleibert.....	5th	20.	Alfred Scioneaux.....	6th
21.	Nemour Granier.....	3rd	22.	C. S. Hosea.....	4th
23.	Marcelin Ory.....	6th	24.	Albert Poche Jr.....	5th
25.	Benny Champagne.....	4th	26.	Emile Oncale.....	4th
27.	Entremont Schexnayder.....	4th	28.	Optime Delaneuveille.....	5th
29.	Alberic Simoneaux.....	4th	30.	Ernest Martin.....	5th

Which said Jury Commission have placed the thirty slips so drawn in an envelope which was sealed and endorsed list

of Petit Jurors for the week beginning Monday January 25th, 1937.

And all of said envelopes were then placed in a box labelled "Jury Box" provided for that purpose which box was sealed and placed in the custody of the Clerk of Court for the use of the session of the 24th Judicial District Court to be held and begun on Monday, January 11th, 1937.

And the said Jury Commission after having examined the Tales Jury List found that same did not need to be supplemented.

In Faith Whereof, the Jury Commission have signed these presents together with said witnesses and the said Clerk of Court on the day and date first above written.

(Signed) Albert Bicknair. Sidney G. Fauchaux.  
Arthur Duhe. Edward J. Berthelot.

Witnesses:

(Signed) Felix F. Berthelot. Albert J. Berthelot.

A True Copy: (Signed) H. R. Martin, Clerk of Court.

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[fol. 39] UNITED STATES OF AMERICA, STATE OF LOUISIANA,  
PARISH OF ST. JOHN THE BAPTIST

#### MINUTES OF PROCEEDINGS

Whereas, the Honorable twenty fourth Judicial District Court, in and for the Parish of St. John the Baptist, has on the 8th day of February, 1937, rendered the following order, to-wit:

Therefore, pursuant (copied below) to said order, the Jury Commissioners summoned by the Clerk of Court to convene at his office on the 8th day of February, 1937, for the purpose of emptying and purging the General Venire Box and the Tales Jury Box, and to place in said General Venire Box the names of three hundred Citizens subject to serve as Petit Jurors and to place in the Tales Jury Box the names of One Hundred Citizens subject to serve as Tales Jurors.

It is ordered by the Court that the Clerk of Court of the 24th Judicial District in and for the Parish of St. John the Baptist summon the Jury Commissioners of the Parish

of St. John the Baptist to assemble and convene in his office and then and there he, the Clerk of Court as the *Ex-officio* Jury Commissioner together with the other Jury Commissioners, purge the General Venire Box as well as the Tales Jury Box, and place in said Jury Venire Box the names of three hundred Citizens to serve as Petit Jurors for the Parish of St. John the Baptist in manner and form, following, to-wit:

First. That after said three hundred names are placed in the General Venire Box the Jury Commissioners shall draw therefrom the names of thirty Citizens who shall be summoned to report for Petit Jury Service for the Special Jury Term for week beginning Monday March 1st, 1937, and thereafter to draw from said Jury Venire Box the names of thirty additional Citizens of the Parish of St. John the Baptist to report and perform Special Petit Jury Service for the week beginning March 15th, 1937, and

It is further ordered that the Tales Jury Box be emptied and purged and that the names of one hundred be placed therein to serve as Tales Jurors, if need be, all in accordance with law.

And in agreement with said summons and in obedience with said Court Order, the Jury Commissioners met this day at the office of the Clerk of Court in and for the Parish of St. John the Baptist for the purposes contained in said order and summons.

Present: Sidney Faucheux, Albert Montegut, Albert Vicknair, Arthur Duke and H. R. Martin, Clerk of Court and ex-officio Member. Absent: Edward J. Berthelot, Although notified.

And the said Jury Commissioners in the presence of M. A. Perret and Alfred Chapaton, competent witnesses of lawful age, competent to read the English language and resident of this Parish, duly summoned for that purpose, together with the Clerk of Court have selected from the Citizens of the Parish of St. John the Baptist, competent to serve as Petit Jurors, the following names, to-wit:

No.	Names	Ward	No.	Names	Ward
1.	Leonard Borne.....	1	2.	Edgard Ockman.....	1
2.	Geo. Gendron, Jr.....	1	4.	Roland Becnel.....	1
5.	Geo. Desroche.....	1	6.	Joseph Falgoust.....	1
7.	Robert Desroche.....	1	8.	Paul Berthelot.....	1
9.	Newton Dinvant.....	1	10.	Maurice Alexander.....	1
11.	Elphege Dugas.....	1	12.	Jules Gendron.....	1
13.	Cco. Borne.....	1	14.	Stan J. Rodrigue.....	1

No.	Names	Ward	No.	Names	Ward
15.	Prudent Debautte	1	16.	Etienne Millet	1
17.	Walton Darensbourg	1	18.	Alfred Ory	1
19.	Nicholas Lemoine	1	20.	Chas. St. Pierre	1
21.	F. N. Dinvant	1	22.	Eddie Desriche	1
23.	Roy Borne	1	24.	Paul J. Champagne	1
25.	Leon Borne	1	26.	Noe Gendron	1
27.	Adolph Sigur	1	28.	Edmond Troclair	1
29.	Maurice St. Pierre Jr.	1	30.	M. T. Haik	1
31.	Roger St. Pierre	1	32.	Emilien Borne	1
33.	Onesime Dufresne	1	34.	Berney Tassin	1
35.	Emile Granier	1	36.	N. E. Beauvais	1
37.	Maurice St. Pierre	1	38.	Adrien Lemoine	1
39.	Telesmar Becnel	1	40.	Philip Padeaux	1
41.	E. R. McCrory	2	42.	Eno Troclair	2
43.	Fernand Webre	2	44.	Nemour Troclair	2
45.	Angelo Hymel	2	46.	N. E. Keller	2
47.	Harold Keller	2	48.	Felecien Tassin	2
49.	Alfred Faucheux	2	50.	Malcom Chapaton	2
51.	Bert Amedee	2	52.	Paul Gendron	2
53.	Nemour Faucheux	2	54.	Rene Keller	2
55.	Wiltz Faucheux	2	56.	Elmo Madere	2
[fol. 40]					
57.	Hamilton Haydel	2	58.	David Webre	2
59.	Leopold Borne	2	60.	Ellis Roussel	2
61.	Eddie Borne	2	62.	Oliver Smith	2
63.	Theodore Borne	2	64.	Whitney Becnel	2
65.	Geo. Haydel	2	66.	Joseph Bossier	2
67.	Numa Hymel	2	68.	Arnaud Madere	2
69.	Louis Rodrigue	2	70.	Francis Tassin	2
71.	John Ory	2	72.	Willie Joseph	2
73.	Gustave Alexis	2	74.	Emile Fabre	2
75.	Harold Dutreux	2	76.	Maurice Leroux	2
77.	Luke Songy	2	78.	Wolford Kroll	2
79.	Norman Kroll	2	80.	Alfred Chapaton, Jr.	2
81.	Louis Jean Louis	3	82.	A. O. Abadie	3
83.	Ferney Tregre	3	84.	Robert Zerangue	3
85.	J. T. Matherne	3	86.	Adolph Tassin	3
87.	Joseph Pierce	3	88.	Noe Borne	3
89.	Henry Dufresne	3	90.	Octave Faucheux	3
91.	Victorian Rome	3	92.	Serafin Faucheux	3
93.	Frank Chaubaud, Jr.	3	94.	Russel Chaubaud	3
95.	Florian Haydel	3	96.	Robt. Abadie	3
97.	Clarence Roussel	3	98.	Ralph Brou	3
99.	Fernand Roussel	3	100.	John Loupe	3
101.	Edward Aucoin	3	102.	Gracien Rome	3
103.	A. J. Ussee	3	104.	Arcard Zeringue	3
105.	Edgar Rodrigue	3	106.	Adolph Amedee	3
107.	Lucien Faucheux	3	108.	Fergus Faucheux	3
109.	Albert Gravois	3	110.	Oliver Dufresne	3
111.	Edward Hymel	3	112.	Elmo Tregre	3
113.	Aubert Zerangue	3	114.	William Perret	3
115.	Henry Wuguespack	3	116.	Wilfred Marse	3
117.	Oliver Dufresne Jr.	3	118.	Olode Marse	3
119.	Valcour Rodrigue	3	120.	Albert Williams	3
121.	Nemour Loup	3	122.	Noble Smith	4
123.	Amos Johnson	4	124.	Eddie Williams	4
125.	Charles Washington	4	126.	Willie Webre	4
127.	Clarence Clement	4	128.	Charles Carrona	4
129.	Athenas Vicknair	4	130.	Joe Akers	4
131.	Elmore Tregre	4	132.	Frank Vicknair	4
133.	Joe Acosta	4	134.	Jourdan Vicknair	4
135.	Camille Tassin	4	136.	Albert Triche	4
137.	Ernest Triche	4	138.	Louis Bartet, Jr.	4
139.	Warren Roussel	4	140.	Mike Ferrara	4

No.	Names	Ward	No.	Names	Ward
141.	Joe Rollo	4	142.	Clifford Monts	4
143.	Louis Tonguis	4	144.	Martin Bourg	4
145.	Honore Vemprenne	4	146.	Geo. Lasseigne	4
147.	Morris Terry	4	148.	Harry Lavigne	4
149.	Tony Millioto	4	150.	Prentice Keating	4
151.	James Robert	4	152.	L. A. Cambre	4
153.	Etienne Cambre	4	154.	Guy Cambre	4
155.	Charles Pisallato	4	156.	Felix Simoneaux	4
157.	Clarence Simoneaux	4	158.	Ferrel Roussel	4
159.	Martin Cambre	4	160.	J. M. Prudohemme	4
161.	Anthony Brady	4	162.	Paul Mobile	4
163.	H. C. Cotham	4	164.	Geo. Thibodeaux	4
165.	Felix Clement	4	166.	Henry Rushing	4
167.	William P. Rushing	4	168.	Horace Cieutat	4
169.	Vincent Lindsey	4	170.	Linn Richard	4
171.	Lionel Edler	4	172.	Lionel Alexander	4
173.	Wallace Vicknair	4	174.	Peter B. St. Martin	4
175.	Edward Cambre	4	176.	Irvin Tassin	4
177.	Wilson Tassin	4	178.	Louis Vicknair	4
179.	Louis Perilloux	4	180.	Clarence Perilloux	4
181.	Claude Perilloux	4	182.	Marshall Lawrence	5
183.	Sonny Wallace	5	184.	Anatole Keller	5
185.	Nick Laiche	5	186.	Paul Dwyer Jr.	5
187.	Helmet Monts	5	188.	Eddie Monts	5
189.	Maurice Granier Sr.	5	190.	Mairice Granier Jr.	5
191.	Lindsey Holmes	5	192.	N. F. Tallion	5
193.	Albert Poche Sr.	5	194.	Cina Webre	5
195.	Cyrille Vicknair	5	196.	Medrick Vicknair	5
197.	Lucien Cambre	5	198.	Arthur Entremont	5
199.	John Rodrigue	5	200.	Leonard Breaud	5
201.	P. O. Vicknair	5	202.	Harris Jacob	5
203.	Ellis Ledoux	5	204.	Theophile Cambre	5
[fol. 41]					
205.	A. J. Cambre Jr.	5	206.	Lawrence Helts	5
207.	Mack Cambre	5	208.	N. S. Williams	5
209.	Wilson Scioneaux	5	210.	Johnny Englade	5
211.	Eddie Madere	5	212.	Wilfred Duhe Sr.	5
213.	Peter Williams	5	214.	Pamphile Webre	5
215.	Percy Keller	5	216.	Elmer Hebert	5
217.	Ivy Jacob	5	218.	Etienne Duhe	5
219.	Eugene Delaneuville	5	220.	Robert Leblanc	5
221.	Malone Templain	5	222.	Louis Millet	5
223.	Rene Englade	5	224.	Francis Chapaton	5
225.	Emile Battard Jr.	5	226.	Ulysses Dufresne Jr.	5
227.	Osemees Vicknair Jr.	5	228.	Henry Catoire	5
229.	Carlo Saragusa	5	230.	Francis Cambre	5
231.	Lance Monts	5	232.	Earl Elfer	5
233.	Clarence Breaud	5	234.	Samuel Jacob	5
235.	Michel Rome	5	236.	Edward Millet Jr.	5
237.	John Baptiste Boe	5	238.	Alvin Vicknair	5
239.	John Audifred Jr.	5	240.	Louis Delaneuville	5
241.	Alexander Brady	5	242.	Frank Monico	6
243.	Peter Tregre	6	244.	James Amedee	6
245.	Johnny Duhe	6	246.	Albert Waguespack	6
247.	Francis Webre	6	248.	— Falgoust	6
249.	—	6	250.	—	6
251.	Melvin Cambre	6	252.	Nick Cashio	6
253.	Frank Miano	6	254.	Wallace Vicknair	6
255.	Jules Waguespack	6	256.	Lamana Roccaforte	6
257.	Earl Schexnayder	6	258.	Alfred Cureaux	6
259.	H. P. Williams	6	260.	Edgard Bernard	6
261.	Rene Oubre Jr.	6	262.	Wilson Torres	6
263.	Joseph Matherne	6	264.	Andrew Decarlo	6
265.	Thomas Templain	6	266.	Mike Helts	6

No.	Names	Ward	No.	Names	Ward
267.	Raymond Duhe	6	268.	Roland Duhe	6
269.	David Kleibert	6	270.	Nick Lasseigne	6
271.	Hubert Duhe	6	272.	Lionel Comeaux	6
273.	Felix Millet	6	274.	Lyman Rosenberger	6
275.	John Landry	6	276.	Alphonse Bergeron	6
277.	Eddie Gauthreaux Jr.	6	278.	Sulphis Amedee	6
279.	Andrew Stein Jr.	6	280.	Chas. Falgoust	6
281.	Sam Sawaya	6	282.	Claude Brock	6
283.	Paul Bourgeois	6	284.	James Trosclair	6
285.	Omer Ory	6	286.	Gilbert Gorio	6
287.	Edward Simon Jr.	6	288.	Sam Polito	6
289.	Eugene Trosclair	6	290.	Alfred Verret	6
291.	Chas. LeBlanc	6	292.	Tony Miano	6
293.	Emanuel Poche	6	294.	Lloyd Gregoire	6
295.	Raoul Boe	6	296.	Max Lasere	6
297.	Sam Amedee	6	298.	Willie Benoit Schexnayder	6
299.	Amedee Schexnayder	6	300.	William Millet	6

Each of the names of the said list had been written by the Clerk of Court on a separate slip of paper together with the number of the ward or place of resident of such person and the slip of paper or ballots containing the names selected have been placed by the Jury Commission in a box labelled General Venire Box.

And the said Jury Commissioners in the presence of the undersigned competent witnesses of this Parish summoned by the Clerk for that purpose have selected from the persons qualified to serve as Jurors for this Parish the following one hundred names of competent good persons a list of whom was made by the Clerk under the supervision of said Jury Commissioners and witnesses which have been placed by the Jury Commissioners in a box labelled Tales Jurors.

No.	Names	Ward	No.	Names	Ward
1.	Irwin Beemel	1	2.	Dewey Madere	1
3.	Leon Webre	1	4.	Lucien Haydel	1
5.	Maurice Madere	1	6.	Emile Hempel	1
7.	Rene Poincaire	1	8.	T. J. Nagel	1
9.	Zepherin Vicknair	1	10.	Joel B. Gray	1
11.	Dennis Cloutare	1	12.	Chas. Stewart	1
13.	Jules Bossier	1	14.	Wilbert Sorapuru	1
15.	Mason Lillier	1	16.	Francois Dufresne	1
17.	Y. B. Terreborne	2	18.	Amilcar Dufresne	2
19.	Odelle Barre	2	20.	Hannon Barre	2
21.	Zenon Ockman	2	22.	Alfred Trosclair	2
23.	Richard Weber	2	24.	Lynn Zerangue	2
25.	Nestor Webre	2	26.	Henry Johnson	2
27.	John Stockman	3	28.	William Davis	3
[fol. 42]					
29.	Marcelin Tregre	3	30.	Aubin Tassin	3
31.	Leo Granier	3	32.	Cyrille Larose	3
33.	Camille Rouger	3	34.	Samuel Demster	3
35.	Oscar Dempeter	3	36.	Marcel Dempeter	3
37.	Raymond Webre	3	38.	Theodore Roussel	3
39.	Joseph S. Dufresne	3	40.	Joe Crosby	4
41.	Willie Madere	4	42.	Icar Hymel	4
43.	Philogene Weber	4	44.	Peter Brady	4



No.	Names	Ward	No.	Names	Ward
45.	Clement Feucht	4	46.	Variste Carter	4
47.	Louis Carry	4	48.	A. J. Mire	4
49.	M. O. Hebert	4	50.	Joe Triche	4
51.	Louis Edler Sr.	4	52.	Godfrey Beck	4
53.	Edwin Brady	4	54.	W. R. Miller	4
55.	J. A. Gebelin	4	56.	J. A. Overcash	4
57.	Alexis Keating	4	58.	E. P. Feucht Jr.	4
59.	Sam Snyder	5	60.	Pierre Snyder	5
61.	Aurelien Cureaux	5	62.	Henry Dorsey	5
63.	Geo. Monts	5	64.	L. H. Falgoust	5
65.	Lionel Vicknair	5	66.	Edward Vicknair Sr.	5
67.	Justin Songy	5	68.	Emile Hotard	5
69.	William Vicknair	5	70.	John Falgoust	5
71.	Edwin Guidry	5	72.	P. E. Richard	5
73.	E. L. Robinson	5	74.	Edward Vicknair Jr.	5
75.	Jules Haydel Sr.	5	76.	Walter J. Guidry	5
77.	Irvin Haydel	5	78.	Ben Waguespack	5
79.	Hobson Brown	6	80.	Billie Wright	6
81.	Norbert Millet	6	82.	Morris Schexnayder	6
83.	Joe Lebouef	6	84.	T. Oubre	6
85.	Elmo Lebouef	6	86.	R. F. Baudry	6
87.	Louis Templain	6	88.	Geo. Adams	6
89.	Noe Madere	6	90.	Joe Templain	6
91.	Joe Lassere	6	92.	Eno Caillouette	6
93.	M. J. Brady	6	94.	Wille Caillouette	6
95.	Lance Cambre	6	96.	John Borne	6
97.	Sidney Clement	6	98.	Leon Picou	6
99.	E. S. Dutreux	2	100.	Roy Dutreux	2

And the slips contained in the General Venire Box having been well mixed by Mr. Albert Vicknair one of the Jury Commissioners in the presence of the others, and the witnesses named has been drawn from said Venire Box, one at the time, the following thirty persons to serve as Petit Jurors for the week beginning Monday March 1st, 1937, to-wit:

No.	Names	Ward	No.	Names	Ward
1.	Alfred Fauchaux	2	2.	Wilson Tassin	4
3.	Roger St. Pierre	1	4.	Harris Jacob	5
5.	Clarence Roussel	3	6.	Irvin Tassin	4
7.	Lyman Rosenberger	6	8.	Ferney Tregre	3
9.	Gilbert Gorio	6	10.	Lionel Comeaux	6
11.	Clarence Perilloux	4	12.	Horace Cieutat	4
13.	F. N. Dimvant	1	14.	Geo. Lasseigne	4
15.	Athenas Vicknair	4	16.	Lindsey Holmes	5
17.	Clarence Simoneaux	4	18.	Ernest Triche	4
19.	Davis Kliebert	6	20.	Noe Gendron	1
21.	Eno Trosclair	2	22.	Maurice St. Pierre Jr.	1
23.	Maurice St. Pierre Sr.	1	24.	Louis Millet	5
25.	Marshall Lawrence	5	26.	Lawrence Ellis	5
27.	Adriene Lemoine	1	28.	Charles Washington	4
29.	Nick Lasseigne	6	30.	M. T. Haik	1

And the slips contained in the box having been well mixed by Mr. Albert Vicknair one of the Jury Commissioners in the presence of the others, and the witnesses named was drawn from said Venire Box, one at the time the follow-

ing thirty names of persons to serve as Petit Jurors for the week beginning March 15th, 1937, to-wit:

[fol. 43]

No.	Names	Ward	No.	Names	Ward
1.	Samuel Jacobs	5	2.	Bert Amedee	2
3.	Joe Ackers	4	4.	Fernand Webre	2
5.	Dewey Delaneuville	5	6.	Thomas Templain	6
7.	Francis Cambre	5	8.	William Joseph	2
9.	Paul Dwyer, Jr.	5	10.	Arcade Zerangue	3
11.	Roy Borne	1	12.	Louis Rodrigue	2
13.	Adolph Amedee	3	14.	H. P. Williams	6
15.	E. R. McCrory	2	16.	Clarence Clement	4
17.	Tony Milioto	4	18.	Maurice Granier Jr.	5
19.	John Audifred Jr.	5	20.	Willie Weber	4
21.	Bernie Tassin	1	22.	Jean Baptiste Boe	5
23.	Telesmar Becnel	1	24.	Sonny Wallace	5
25.	Emilien Borne	1	26.	Ellis Ledoux	5
27.	Edmond Trosclair	1	28.	Harold Keller	2
29.	Henry Rushing	4	30.	Percy Keller	5

And the said Jury Commissioners has placed thirty slips so drawn in an envelop which was sealed and endorsed, Petit Jurors for the week beginning March 1st, 1937.

And the said Jury Commissioners has placed thirty slips so drawn in an envelope and endorsed Petit Jurors for the week beginning March 15th, 1937.

And all of the said envelopes were placed in a box labelled Jury Box, for that purpose which box was sealed and locked and placed in the custody of the Clerk of Court for the use at the session of the 24th Judicial District Court to be held on March 1st, 1937.

In Faith Whereof, the Jury Commissioners have signed these presents together with the said witnesses and said Clerk of Court, on the day and date first above written.

(Signed) A. Montegut. Albert Vichnair. Sidney G. Faucheux. Arthur Duhe.

Witnesses:

(Signed) Alfred Chapaton. M. A. Perret.

A True Copy: (Signed) H. R. Martin, Clerk of Court.

[fol. 44] UNITED STATES OF AMERICA, STATE OF LOUISIANA,  
PARISH OF ST. JOHN THE BAPTIST

#### MINUTES OF PROCEEDINGS

Be it Known, That on this 25th day of the month of June in the year of our Lord one thousand nine hundred and thirty seven, and of the Independence of the United States of America the one hundred and sixty-first,

The Jury Commissioners in and for the Parish of St. John the Baptist, aforesaid, met at the Clerk's Office at



the Court House of this Parish, after having been duly notified by the Clerk of Court for the purpose of supplementing the General Venire List and to select a Grand Jury and to draw a Petit Jury Panel for the week beginning Monday July 12th, 1937.

Present: Albert Vicknair, Arthur Duhe, Sidney Fauchaux, and H. R. Martin, Clerk of Court, ex-officio member of said Jury Commission.

And the said Jury Commission in the presence of M. A. Perret and Felix Berthelot, competent witnesses of lawful age, competent to read the English language and residents of this Parish and duly summoned by the Clerk of Court for said purpose, and after having been furnished by the Clerk of Court with a list of Grand Jurors and those who have served as Petit Jurors since the previous drawing have struck therefrom the names of said persons as have served as well as those who have removed from Parish,

And the said Jury Commission in the presence of said witnesses have supplemented the original list and names of the ballots in the box with the names of sixty two competent men from the qualified jurors of this Parish, so as to keep the number of names in the General Venire Box at three hundred names, which names were written by the Clerk of Court on a separate slip of paper, to-wit:

No.	Names	Ward	No.	Names	Ward
1.	Arnaud Tassin.....	1	8.	Roger Burch.....	1
2.	Honore Charpentier.....	1	9.	Joseph Bonnaville.....	1
3.	Rene Webre.....	1	10.	Leonard Bossier.....	1
4.	Paul Champagne.....	1	11.	Maurice Charpentier.....	1
5.	Raymond Haydel.....	1	12.	Maurice Madere.....	1
6.	Albert Berthelot.....	1	13.	Francis Tassin.....	2
7.	Clifford Gendron.....	1	14.	Raphael Webre.....	2
21.	Henry Dufresne.....	3	15.	Albin Roussel.....	2
22.	John Loup.....	3	16.	Henry Boudreaux.....	2
23.	Edmond Borre.....	3	17.	David Webre.....	2
24.	Edward Roussel.....	3	18.	Luc Songy, Jr.....	2
25.	Frank Webre.....	3	19.	Oliver Haydel.....	2
26.	Joe Marino.....	4	20.	A. J. Simon.....	2
27.	Prentice Keating.....	4	45.	Preston Madere.....	5
28.	Nelson Haydel.....	4	46.	Henry Steibb.....	5
29.	Clarence Scioneaux.....	4	47.	Ervin Haydel.....	5
30.	Willie Melancon Jr.....	4	48.	Wilton Helts.....	5
31.	Douglas Cambre.....	4	49.	William Cambre.....	5
32.	L. H. Catoire.....	4	50.	Clinton Vicknair.....	5
33.	Sam Pizzolotta.....	4	51.	Junius Duhe.....	5
34.	Philogene Webre Jr.....	4	52.	Angelo Jacob.....	5
35.	Nelson Madere.....	4	53.	Henry Hotard.....	5
36.	Dominic Milioto.....	4	54.	Alcide Vicknair.....	5
37.	Emile Petrolia.....	4	55.	Claude Oubre.....	6
38.	Alfred Schlosser.....	4	56.	Raol Boe.....	6
39.	Edward Vicknair.....	4	57.	Lance Montz.....	6
40.	Joe Keller.....	5	58.	Earl Gorio.....	6

No.	Names	Ward	No.	Names	Ward
41.	John Rodrigue.....	5	59.	Fred Duhon Jr.....	6
42.	Joe Duhe.....	5	60.	Weedman Duhe.....	6
43.	J. P. Brown.....	5	61.	Ferdicie Millet.....	6
44.	Jules Duhe.....	5	62.	Irvine Millet.....	6

And the said Jury Commission having selected the above sixty two names and having written the said names on separate slips have placed the said slips containing said names in the General Venire Box.

Immediately thereafter the Jury Commission have selected from the General Venire List the names of twenty citizens to be subject for duty as Grand Jurors as provided by law, to-wit:

[fol. 45]

No.	Names	Ward	No.	Names	Ward
1.	Arnaud Tassin.....	1	11.	Prentice Keating.....	4
2.	Honore Charpentier.....	1	12.	Nelson Haydel.....	4
3.	Philip Webre.....	1	13.	Joe Marino.....	4
4.	Paul Champagne.....	1	14.	Joe Keller.....	5
5.	Raphael Webre.....	2	15.	John Rodrigue.....	5
6.	Francis Tassin.....	2	16.	Joe Duhe.....	5
7.	Albin Roussel.....	2	17.	J. P. Brown.....	5
8.	Henry Dufresne.....	3	18.	Claude Oubre.....	6
9.	John Loup.....	3	19.	Lance Montz.....	6
10.	Edmond Borne.....	3	20.	Raol Boe.....	6

And the said names of persons so selected have been written on slips of paper by the Clerk of Court in the presence of the Jury Commissioners and witnesses, the said slips were placed by the said Jury Commission in an envelope which was sealed and endorsed, "List of Grand Jurors".

And the slips contained in the General Venire Box having been well mixed by Mr. Sidney Faucheux one of the members of the said Jury Commission in the presence of the others and the witnesses above named has drawn from said Venire Box one at the time the following thirty names of persons to serve as Petit Jurors for the week beginning Monday July 19th, 1937 to-wit:

No.	Names	Ward	No.	Names	Ward
1.	Jourda Gendron.....	4	16.	Nick Laiche.....	5
2.	Alfred Ory.....	1	17.	Felecian Tassin.....	2
3.	Geo Desroche.....	1	18.	Arnaud Madere.....	2
4.	Whitney Becnel.....	2	19.	N. F. Tallion.....	5
5.	Maurice Granier Jr.....	5	20.	Elmo Tregre.....	3
6.	George Haydel.....	2	21.	Edward C. Roussel.....	3
7.	Edgard Bernard.....	6	22.	Oliver Haydel.....	2
8.	Clarence Braud.....	5	23.	Eugene Delaneuville.....	5
9.	Nelson Madere.....	4	24.	Sam Amedee.....	6
10.	Lionel Alexander.....	4	25.	William Perret.....	3
11.	Eddie Gauthreaux Jr.....	6	26.	Louis Perilloux.....	4
12.	Luk Songy Jr.....	2	27.	Norman Kroll.....	2
13.	R. E. Rosenberger.....	6	28.	Wallace Vicknair.....	4
14.	Eddie Montz.....	5	29.	Albert Jean Louis.....	3
15.	Felix Clement.....	4	30.	Peter B. St. Martin.....	4

And the said Jury Commission placed the thirty names or ballots thus drawn in an envelope which was sealed and endorsed with the words Petit Jurors for the week beginning Monday July 19, 1937, and the said Sidney Fauchaux in the presence of the Commissioners and the said witnesses drew from the said General Venire Box one at the time thirty additional names of persons to serve as Petit Jurors for the week beginning Monday, July 26th, to-wit:

No.	Names	Ward	No.	Names	Ward
1.	Robert LeBlanc.....	5	16.	Rene Oubre Jr.....	6
2.	Wilfred Marse.....	3	17.	Harry Lavigne.....	4
3.	Clarence Scioneaux.....	4	18.	Alphonse Bergeron.....	6
4.	Paul Bourgeois.....	6	19.	Mike Helts.....	6
5.	Elmer Hebert.....	5	20.	Rene Englade.....	5
6.	Eddie Madere.....	5	21.	Frank Vicknair.....	4
7.	Jules Gendron.....	1	22.	Martin Cambre.....	4
8.	Henry Steibb.....	5	23.	Anatole Keller.....	5
9.	Edward Millet Jr.....	5	24.	Albert Berthelot.....	1
10.	Rene Keller.....	2	25.	Wolford Kroll.....	2
11.	Etienne Duhe.....	5	26.	Sulphis Amedee.....	6
12.	Earl Elfer.....	5	27.	Geo. Gendron Jr.....	1
13.	Newton Dinvant.....	1	28.	Luke Songy.....	2
14.	Nemour Trosclair.....	2	29.	Nemour Loup.....	3
15.	Robert Desroche.....	1	30.	Eddie Borne.....	2

And the said Jury Commission placed the thirty names or ballots thus drawn in an envelope which was sealed and endorsed with the words Petit Jurors for the week beginning Monday July 26th, 1937 and the said Sidney Fauchaux in the presence of the Commissioners and the said witnesses drew from the said General Venire Box one at the — thirty additional names of persons to serve as Petit Jurors for the week beginning Monday, July 26th, to-wit:

Which said sealed envelopes containing the names of the Petit Jurors and those of the Grand Jury were placed by the Jury Commission in a box provided for that purpose which was sealed and locked and placed in the custody of the Clerk of Court for the use at the next session of the 24th Judicial District Court to be held and begun on the 12th day of July 1937. In Faith Whereof the said Jury Commission have signed these presents on the day and date hereinabove first written.

(Signed) Albert Vicknair, Arthur Duhe, Sidney G. Fauchaux, H. R. Martin, Clerk.

Witnesses, M. A. Perret, Felix Berthelot.

[fol. 46] STATE OF LOUISIANA,  
Parish of St. John the Baptist:

VERDICT OF CORONER'S JURY

An Inquisition taken at Edgard, La., and Reserve, La., on the 20th day of October, in the year 1936, before the undersigned Coroner of the Parish of St. John the Baptist, upon view of the body of Ignace Rousselle there lying dead.

The jurors, whose names are hereunto subscribed, having been sworn to inquire, on behalf of the State, when, where and by what means said Ignace Rousselle came to his death, upon their oath do say:

That one Ignace Rousselle came to his death on the night of October 20th, 1936, at about 6:45 P. M. in the yard of one Mrs. Celestine Pierre (colored), while attempting to serve a warrant and to effect the arrest of one Hugh Pierre (negro) as a result of gunshot wounds of the chest, the gun in the hands of and fired by Hugh Pierre.

Ignace Rousselle was shot with buck shot directly over the heart and in the left lower chest.

In Testimony Whereof the Coroner and the Jurors of this inquest have hereunto subscribed thwir names the day and year above stated.

(Signed) J. R. Fernandez, Coroner.

(Signed) Willie Duhe, Jr., Joseph Duhe, Eddie Borne, Elmore Berthelot, Ed A. Dufresne, Jurors.

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[fol. 47] STATE OF LOUISIANA,  
Parish of St. John the Baptist,  
24th Justice Court:

AFFIDAVIT OF LEOPOLD ORY

Leopold Ory being duly sworn deposes and says, the one Hugh Pierre late of the Parish of St. John the Baptist on or about the 20th day of Oct. 1936, in the Parish aforesaid.

Did feloniously with and by means of a certain dangerous weapon to-wit: a stick make and assault upon the said Leopold Ory with intent to kill the said Leopold Ory.

Wherefore, this deponent prays that the said Hugh Pierre may be arrested and further dealt with according to law.

Sworn to and subscribed before me this 20th day of Oct. 1936.

(Signed) Albin J. St. Pierre, Justice of Peace, 1st Ward.

Plaintiff Leopold Ory.

[fols. 48-60] TWENTY-FOURTH DISTRICT COURT, PARISH OF ST. JOHN THE BAPTIST, STATE OF LOUISIANA

### WARRANT

To the Constable of the Parish of St. John the Baptist, and to the Keeper of the Public Prison of the same, Greeting:

Whereas, Hugh Pierre stands charged before me on the oath of Leopold Ory,

For Assault with intent to kill.

You the said Constable are hereby commanded to convey the said Hugh Pierre to the Prison aforesaid and there deliver him with this warrant to the Keeper of the same, who thereupon is required and authorized to keep him in safe custody, until he can find bail in the sum of \$500.00, for his appearance before the Hon. Judge or until he be discharged by due course of Law.

Given under my hand this 20th day of Oct. 1936.

(Signed) Albin J. St. Pierre, 2nd Justice of Peace.

[fol. 61] IN TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF ST. JOHN THE BAPTIST

STATE OF LOUISIANA

vs.

HUGH PIERRE

### STATEMENT OF EVIDENCE ON MOTION TO QUASH INDICTMENT

Testimony taken on a motion to quash the indictment, in the above entitled cause, taken at Edgard, in the Parish of St. John the Baptist, Louisiana, on Tuesday, January 26th, 1937, reported by T. J. Carbrey.

### APPEARANCES

Hon. L. Robert Rivarde, Judge, Presiding.

E. M. Conzelmann, Esq., Assistant District Attorney, for the State.

Maurice R. Woulfe and Lubin F. Laurent, Esqs., for the Accused.

[fol. 62] H. R. MARTIN, after being duly sworn, testified as follows:

Direct examination.

Mr. Woulfe:

Q. Mr. Martin, will you state your official position in the Parish?

A. Clerk of Court and Ex-Officio Notary Public, Recorder of Mortgages and Register of Conveyances.

Q. What other position do you hold?

A. Ex-Officio Jury Commissioner.

Q. Mr. Martin, when were the names placed in the venire box that this present Grand Jury were drawn from?

Mr. Conzelmann: I object to that, if Your Honor pleases—the recor-s is the best evidence.

Mr. Woulfe: We call for the record, if Your Honor pleases.

The Court: Get the record, Mr. Clerk.

(At this time Mr. Martin was withdrawn as a witness, and the accused was arraigned and pleaded not guilty. With leave to withdraw his plea, counsel for the accused now states that he desires to file certain pleas.)

H. R. MARTIN, recalled as a witness:

Mr. Woulfe:

Q. Have you with you the general venire list?

A. Yes, sir.

The Court: I notice, Mr. Clerk, that you have some fly sheets or leaves in your hand. Where were they taken from?

A. They were taken from the jury commission book.

Q. From the book, itself?

A. Yes, sir.

Q. What is your object in simply bringing up the fly [fol. 63] leaves, and not bringing the book up, so that you would not have to carry the bis book up stairs?

A. Absolutely.

Mr. Woulfe:

Q. That list contains three hundred names, don't it?

A. Yes, sir.

Q. Did you, in accordance with your office, deposit the names contained on that list, together with the other jury commissioners?

A. Yes, sir.

Q. That was done in your presence?

A. Yes, sir.

Q. In the general venire box?

A. Yes, sir.

Q. For this parish?

A. Yes, sir.

Q. Does that list contain the names of any negroes?

A. I am under the impression that it does. I am not familiar with all of the names of the people in the Parish. I am also under the impression that there are two, or three, or possibly four names of negroes in the general venire list. I would have to go over it with someone that is more familiar with the names than I am to be positive.

Q. Of course, in the matter that is on trial, we can't take your impression, Mr. Clerk?

A. I wouldn't swear to that under oath. However, I have been informed that there are several names in the box.

The Court: Strike that out of the record.

Mr. Woulfe:

Q. Of your own knowledge?

A. Of my own knowledge I can't say a thing, because I don't know. Someone would have to check the list that is more familiar with it than I am.

Q. Who would be more familiar with the list than you are?

[fol. 64] A. Possibly the jury commissioners, or the Sheriff, or someone from the individual ward. I don't know every man from each individual Ward.



Q. You wouldn't swear positively that that list contains the names of any negroes that are qualified to serve as Grand or petty jurors, would you?

A. I have never seen them, but I am informed of that fact.

Q. Would you swear positively, of your own knowledge, that that list contains the names of any persons that are qualified to serve as Grand or petty jurors?

A. Not unless it was checked by someone who is more familiar with the names than I am.

Q. Are you familiar with the panel of the present Grand Jury that returned this indictment?

A. I have the list here. Yes, I think I know nearly every one on the Grand Jury.

Q. Mr. Clerk, I show you a list which purports to be a list of the names of the present Grand Jury that returned the indictment in this case on January 18th, 1937?

A. Yes sir.

Q. Is that the jury panel?

A. Yes sir.

Q. Of the Grand Jury?

A. Yes sir.

Q. That returned the indictment in this case?

A. Yes sir.

Q. Do you know, of your own knowledge, whether every name contained on that list that I have just shown you of the Grand Jury venire, are white or colored?

A. The Grand Jury panel are all white.

Mr. Conzelmann:

Q. Mr. Martin, are you answering from the list that counsel has, or the list that you have in front of you?

A. That is supposed to be a true copy, Mr. Conzelmann.

— That is not a true copy, and I object to your answering [fol. 65] from anything else except the original record in your possession.

The Court: The objection is good.

Mr. Woulfe:

Q. Look at your original record and tell me whether or not that the present panel of this Grand Jury which returned the indictment in this case, that every person on there is not a member of the white race?



Q. Every member on there is not a member of the white race?

Q. Are they all members of the white race?

A. They are all members of the white race.

Q. Then, according to your evidence, that Grand Jury panel contains the names of no negroes?

A. No sir.

Q. From your experience as Clerk and Ex-Officio Jury Commissioner, to your own knowledge, did you ever know a negro to serve either on the Grand Jury, or on the petty jury of the Parish of St. John the Baptist?

A. I have never known them to serve on the grand jury—however, there have been named on the petty jury.

Q. How long ago?

A. The last petty jury.

Q. How many?

A. One that I know of.

The Court:

Q. When you say the last petty jury, what do you mean?

A. The jury that was drawn on December 29th for this term.

Q. He is asking you about previous juries?

A. Prior to that, I don't know.

Mr. Woulfe:

Q. You are talking about the general venire?

A. I am talking about the petty jury and the grand jury,—that is what you asked me.

Q. Are you referring to the general venire, or to the jury panel selected for the last jury?

[fol. 66] A. I am referring to the panels that were drawn.

Q. That you knew of the name of one negro that was contained in that panel?

A. Absolutely.

Q. Will you tell us who that is, please?

A. Ernest Martin—he is a resident of the Fifth Ward—however, no kin.

Q. Do you know what the population of the Parish of St. John the Baptist is—have you any idea?

A. No. The voting population I have an idea, is about three thousand.

Q. I am not talking about the voting population?

A. I have no idea as to what the population of the Parish of St. John the Baptist is. I have not the remotest idea.

Q. Mr. Martin, have you any idea what percentage of negroes comprises the population of the parish of St. John the Baptist?

A. I have not the remotest idea. I never checked up on the bureau of vital statistics or anything else in my official capacity.

Q. Could you give us approximately the population?

A. No sir, I could not.

SHERIFF WILLIAM DUHE, after being duly sworn, testified as follows:

Direct examination.

Mr. Woulfe:

Q. Mr. Duhe, you are the Sheriff of the Parish of St. John the Baptist?

A. Yes sir.

Q. How long have you been sheriff?

A. Since 1928.

Q. Are you familiar with the general venire list—if the court pleases, I wa-t to offer this particular venire list in evidence as identified by Mr. Martin, and, in lieu thereof, substitute a copy, and mark it D-1. Now Mr. Duhe, I show [fol. 67] you the original of the general venire of jurors for the Parish of St. John the Baptist, and I ask you if you are familiar with the persons whose names appear on that venire list?

A. I am not familiar with all of them, but most of them—I know them.

Q. Do you know whether or not that list contains the name of any negro?

A. I don't know of but one negro that I know of that was sworn as a juror Monday. After I get through reading it, I can tell you. No. 33 is a negro, D. N. Dinbaut from the First Ward. Arthur Voisin from the Fifth Ward, No. 174. Those are the only ones I see now.

Q. The last name that you just called, is that person not dead?

A. Yes sir, he is dead.

Q. When did he die, can you tell me?

A. He died about three months ago.

Q. While you are looking at that list, I ask you to look at the present grand jury panel drawn, while you have that list in front of you, and I refer you to the present grand jury panel which returned this indictment in this matter?

A. What was the question?

Q. I refer you to the present grand jury panel. Look at that present grand jury panel and see if the name of any negro appears thereon?

A. No sir.

Q. How long have you resided in the Parish of St. John the Baptist, Mr. Duhe?

A. All my life—that is 49 years.

Q. Are you familiar with the population of the Parish of St. John the Baptist—I mean, do you know approximately what the population of the Parish of St. John the Baptist is?

A. No, I don't know that.

Q. Can you approximate the percentage of negroes in the Parish of St. John the Baptist, as compared to the white people?

[fol. 68] A. No, I am not in a position to say what would be the figure, or near it.

Q. Is it one-third of the population, can you judge, or one-half of the population, or more than half?

A. I have no way of giving even an approximate estimate on that at all.

Q. You do know, as a matter of fact, that you have many negroes living in the Parish of St. John the Baptist, do you know?

A. Yes.

Q. Do you know approximately how many negroes would be qualified to serve as grand or petty jurors in the Parish of St. John the Baptist?

A. I know that the white population is much greater than the negroes.

Q. But you do know that there is more than one who is qualified to serve as a grand or a petty juror in the Parish of St. John the Baptist?

A. Yes.

Q. Will you approximate the number that would be qualified to serve as grand or petty jurors at 300, or 400, or 500?

A. I wouldn't be able to say that either.

Cross-examination.

Mr. Conzelmann:

Q. Mr. Duhe, you don't know all of those whose names appear on the jury list, do you?

A. I know approximately all of them, yes sir.

Q. You know practically all of them?

A. I know pretty well all of the people on there.

The Court:

Q. Mr. Duhe, the Parish of St. John the Baptist has very few industrial plants, had it?

A. They only have one.

Q. Which one is that?

A. That is at Reserve.

[fol. 69] Q. Do they employ a good many people?

A. Yes.

Q. They employ a good many colored people as well as white, don't they?

A. Yes sir.

Q. The colored employes, and some of the white employes, is made up of what is known probably floaters, is it?

A. That is what they are.

Q. That is one of the reasons why you cannot estimate, or you cannot tell what the population is, as differentiated between the white and the colored population?

A. That is correct.

Q. The Parish of St. John the Baptist is also engaged in the cultivation of raising cane, and in some sections, probably rice today, isn't it?

A. Yes sir.

Q. And the planters, do they import a good deal of colored labor into the Parish of St. John the Baptist during harvest time?

A. They do.

Q. It is a sort of a floating population?

A. Yes sir.

Q. And as a matter of fact, it is a fact that sometimes some of them come here and stay?

A. Very often.

Q. And nobody knows anything about them?

A. Very often.

Q. Say, within the last five, or six, or eight, or ten years, you had a big sawmill, did you not?

A. We had one in Garyville.

Q. That employed a good deal of colored labor?

A. Yes sir.

Q. That was composed of citizens of the Parish, as well as floaters?

A. It was mostly floaters, or nearly all of them.

[fol. 70] Q. You live on the other side of the river from the courthouse?

A. Yes sir.

Q. You don't know the colored population on the courthouse side, do you—you don't know how many people there are on this side of the river?

A. No sir.

Q. We will call it, for the sake of argument, the courthouse side of the river. Therefore, you don't know how many colored people reside over here, as compared to the white people?

A. No sir.

Mr. Woulfe:

Q. Are you familiar with the drawing of these names and the placing of them in this general venire list?

A. No sir.

Q. Who would be familiar with that, do you know?

A. The commissioners, I imagine—they are the ones that drew them.

Q. You don't know how they derived these names, do you?

A. No sir.

J. O. MONTÉGUT, after being duly sworn, testified as follows:

Direct examination.

Mr. Woulfe:

Q. Mr. Montégut, what is your official position in the parish of St. John the Baptist?

A. Superintendent of Schools.

Q. Are you familiar with the population in the Parish of St. John the Baptist?

A. In a general way, yes sir.

Q. Are you the superintendent of schools over the white and the colored schools?

A. Yes sir.

Q. Do you know what relation the negroes hold towards [fol. 71] the white, in regard to number—can you estimate what the negro population is in the Parish?

A. No sir, I don't know—I could not.

Q. Can you estimate it?

A. No, not the population—I don't know anything about the population, or the relationship between the two.

Q. I ask you, in relation to the percentage of colored people in the Parish of St. John the Baptist—you have no idea what the percentage would be?

A. No sir.

Q. Have you many colored attending schools in the Parish of St. John the Baptist?

A. Yes sir, we have quite a number.

Q. About how many have you attending schools?

A. About six hundred now.

Q. How many white attending schools?

A. Approximately twenty-two hundred.

Q. How long have you been superintendent of schools, Mr. Montegut?

A. Eleven years.

Q. Have you in your office the United States census for this Parish?

A. I may have it—I am not quite sure.

Q. Can you look and see if you have it in your office?

A. Yes sir.

Q. Have you there in your possession a United States Census Bureau report of this Parish?

A. No sir—I have a preliminary announcement of Farm census for the year 1930.

Q. Does that show the population of the Parish of St. John the Baptist?

A. No sir, it does not.

Q. What does it show?

A. It shows the farm acreage, and the live stock and the selected crops, and the production.

[fol. 72] Q. That isn't the United States census that you have?

A. I understand it is the preliminary announcement of the farm census of 1930.

Q. That don't contain the census of the population of the Parish of St. John the Baptist, does it?

A. No, it doesn't.

The Court:

Q. It doesn't show the difference between the population of white and colored races?

A. No sir.

Mr. Woulfe:

Q. That isn't the United States census that you have there?

A. That simply concerns farming and live stock and such as that—it is a preliminary announcement of the farm census.

Q. What is your opinion of the population of white and colored in this Parish, those that can read and write?

Mr. Conzelmann: I object to that, if Your Honor pleases, unless they qualify the witness.

The Court:

Q. Mr. Montegut, how long have you lived in the Parish?

A. I have lived here about thirty-five years.

Q. Were you born and raised here?

A. No, not exactly—I wasn't born here.

Q. You have been living here for thirty-five years—how old are you now?

A. 42.

Q. You are thrown in contact with the people around here?

A. Yes sir.

Q. Would you be in a position to estimate what the population of the Parish of St. John the Baptist is?

A. I think the population is around fourteen thousand.

Q. Of that number, do you think you can tell us what portion of that amount is composed of members of the colored race?

[fol. 73] A. I would say about three thousand.

Mr. Woulfe:

Q. In your estimate, would that number of three thousand approximate the number that can read and write?

A. I think there would be fully about twenty-five hundred.

The Court:

Q. Of that twenty-five hundred, Mr. Montegut, can you approximate, for the benefit of this record and the court—you are talking about males and females?

A. Yes.

Q. And children?

A. Yes.

Q. Can you approximate approximately what the male population is among the colored race of this Parish?

A. No, I really wouldn't be in a position to do that.

Q. Would you say that it would be about one-half, or one-third of the twenty-five hundred that you just mentioned?

A. Yes—that, I would say, would be a guess.

Q. That is what I want you to do, guess at it?

A. I would guess that about one-half of the three thousand would be males.

Q. Over twenty-one years of age?

A. No, not over twenty-one. The population of fourteen thousand comprises children and all.

Q. I am asking you this for the benefit of this record. All that we are trying to ascertain is the amount of the colored population who would be eligible for jury duty in case they were called on in this parish. Naturally, we do not have any females on juries here—under the law they have to make a request to be placed on the jury—and we cannot use minors on juries, you know that?

A. Yes.

Q. We can only place male persons, over the age of 21 years, who possess the following qualifications. That they [fol. 74] must know how to read and write the English language inteloigently. You having stated that fourteen thousand would compose the population, do you include in that both men, women and children?

A. Yes sir.



Q. I ask you, for the benefit of this record, how many of those fourteen thousand would you approximate are males, over the age of 21 years, who would be eligible for jury duty, if they were called on in this Parish?

A. I wouldn't say more than about twenty-five or fifty—in that neighborhood.

Q. Twenty-five or fifty colored men?

A. Yes sir.

Q. Between 21 and 65 years of age?

A. Yes sir.

Q. Because if they are over 65 years of age, they can come in and claim an exemption?

A. Yes sir.

Mr. Woulfe:

Q. Of course, you don't know how you arrive at that opinion, or that guess?

A. That is just my general impression, by dealing with the people.

Q. Isn't it a fact that there are more than twenty-five or fifty males, above the age of 21 that really know how to read and write in this Parish?

A. I do not know that.

Q. You do not?

A. No sir.

Cross-examination.

Mr. Conzelmann:

Q. Do you know the qualifications of a petty juror?

A. No sir.

LUCIEN TROXLER, after being duly sworn, testified as follows:

Direct examination.

[fol. 75] Mr. Woulfe:

Q. Mr. Troxler, are you a resident of this Parish?

A. Yes sir.

Q. Are you a member of the bar of this Parish?

A. Yes sir.

Q. Have you lived here all of your life?

A. No sir.

Q. How long have you lived here?

A. Nineteen years.

Q. How old are you, Mr. Troxler?

A. Thirty, at my nearest birthday.

Q. Can you estimate the population of the Parish of St. John?

A. No sir.

Q. Do you know what the proportion of white and colored in the population of the Parish of St. John the Baptist is?

A. No sir.

Q. You have no idea?

A. No sir.

O. J. BECNEL, after being duly sworn, testified as follows:

Direct examination.

Mr. Woulfe:

Q. Mr. Becnel, you have lived in this Parish all of your life?

A. Yes sir.

Q. How old are you?

A. I am sixty years of age.

Q. Do you know approximately the population of this Parish?

A. No sir.

Q. Do you know the population of whites and colored in this Parish?

A. No sir.

Q. You don't know?

A. No sir.

[fol. 76] F. N. DINVANT, after being duly sworn, testified as follows:

Direct examination.

Mr. Woulfe:

Q. What is your business?

A. Grocery business and farmer.

Q. You are a colored man?

A. Yes sir.

Q. Do you know approximately how many colored people there are in the Parish of St. John the Baptist?

A. No sir, I have no idea.

Q. Is it many, or a few?

A. It seems to me they have just about the same amount.

Q. Do you mean that it is half and half—half white, and half colored—is that your estimation?

A. Just about—I am not positive—that is just my mind.

Q. Do you know approximately how many men, how many negroes, above the age of 21, can read and write, and are residents of this Parish?

A. I have not the least idea.

Q. Would it be more than one?

A. Sure.

Q. Would it be more than ten?

A. Sure, I think so.

Q. Would it be more than 150?

A. I think so.

Q. Would it be more than 500?

A. Well, I could not say approximately on that.

Q. Would you say it is more than three hundred, or three hundred and fifty?

A. I believe there are more than three hundred and fifty.

Cross-examination.

Mr. Conzelmann:

Q. Do you know what the population of the Parish is?  
[fol. 77] A. No, I have no idea.

Q. Do you mean to testify that, in the population of the Parish of St. John the Baptist, that there are as many negroes as there are white people?

A. I say I figure about half and half. That is just my mind.

Q. You are just guessing at that?

A. Yes sir.

Q. Could you say on which side of the river most of the colored people live?

A. Well, I think on both sides.

Q. Can you tell on what side of the river most of the white people live?

Q. I judge they have more white people on the other side.

Q. What side of the river do you think most of the colored people are on?

A. On this side—that is just my mind.

Q. That is your mind?

A. That is all.

Q. In other words, you mean that you are just guessing all around?

A. That is it.

Q. You don't know how many colored people there are in the Parish, do you?

A. No sir.

Q. Your business is store keeper?

A. Yes sir.

Q. Down at Tigerville?

A. Yes sir.

Q. That is on the same side of the river that the courthouse is on?

A. Yes sir.

Q. A lot of these colored people that you see around here come and go, don't they—they don't stay here all the time, do they—they are here for the grinding season and the threshing season, and off again, that is, a good lot of them?

A. Yes sir.

[fol. 78] Q. And whatever you testified to, you are just guessing at it?

A. Yes sir.

Q. Can you name me any of the colored people that you say can read and write the English language intelligently?

A. Well, everything I said was just a guess. I couldn't say anything like that. I can't do it—I can't guess at all.

The Court:

Q. You can name yourself, if you want to?

A. I can't guess.

Q. Can you read and write?

A. I can.

Q. Were you born and raised in the Parish of St. John?

A. Yes sir.

Mr. Conzelmann:

Q. Did you ever read the Constitution of the United States?

A. No sir.

Mr. Woulfe: I object to that—that is not a qualification.  
The Court: The witness is under cross-examination.

Mr. Conzelmann:

Q. You say you haven't read the Constitution of the State of Louisiana?

A. No sir.

Q. Have you ever read the Constitution of the United States?

A. No sir.

The Court:

Q. You live on the courthouse side of the river, don't you?

A. Yes sir.

Q. The Parish of St. John is divided by the Mississippi River?

A. Yes sir.

Q. The biggest part of the population of the Parish is on the other side of the river?

A. Yes sir.

[fol. 79] Q. How many times have you been across the river?

A. I don't go across the river often.

Q. When is the last time you were on the other side of the river, across from the courthouse?

A. Perhaps a year ago, judge.

Q. And before that, how many times?

A. Not often. Very, very seldom, judge.

Q. Do you know anybody particularly across the river?

A. Only a few people.

Q. Have you any relations over there?

A. I don't hardly think so.

Q. When you go across the river, where do you go?

A. Mostly just to the bank, and then back.

Q. You go there to make a deposit for your grocery store?

A. Yes sir,

Q. You don't speak to the neighbors?

A. No sir.

Q. You don't hobnob with the people across there?

A. No sir.

Q. You go over and make a deposit in the bank, and come back?

A. Yes sir. Maybe it is longer than that.

Q. You don't know how many people there are across the river?

A. No sir.

Q. You don't know how many white or how many colored people there are?

A. No sir.

Mr. Woulfe:

Q. Do you know a man named H. P. Williams, at Garyville, a colored man, an undertaker.

A. I think I kind of know him—I think so—A. P. Williams—I think I remember seeing that name.

Q. Do you know a man named George Courou?

A. I think I know him. Of course I know plenty people by that name, but I don't know if that is the particular one. That is a big family, you know.

[fol. 80] Mr. Woulfe:

Q. Do you know Reverend George Washington?

A. No, I don't know him personally.

Q. Do you know Albert Washington?

A. Yes.

Q. Is he colored?

A. Yes.

Q. Do you know Augustus Reed?

A. Sure.

Q. Do you know a man named Lemox?

A. I heard talk about him, yes.

Q. Are all of those people, whose names I have called, colored?

A. Yes.

Q. Are they above the age of twenty-one?

A. Yes sir.

Q. Do you know whether or not they know how to read and write?

A. Well, I know Albert Washington and Augustus Reed know how to read and write; the rest, I don't know. I never did have any dealings with them.

Q. How many colored people around your store, males, above the age of 21, can read and write, to your knowledge?

A. Well, I know a few that know how to read and write, but I can't say how qualified they are. They can read, and write their name, or something like that.

Q. I am asking you how many, among those people that come to your store, colored people, above the age of twenty-one years, can read and write?

A. I think they have a few of them that know how to read and write.

Q. How many would you estimate, would you judge that you know personally?

A. Maybe ten or twelve, approximately.

CHARLES DE'RONCELET, after being duly sworn, testified as follows:

Direct examination.

[fol. 81] Mr. Woulfe:

Q. You are a member of the colored race—you are a colored man?

A. Yes, sir.

Q. How old are you?

A. I am 67.

Q. Can you read and write?

A. A little, yes sir.

Q. Do you know any colored men above the age of 21 in this Parish that can read and write?

A. Well, I know a few.

Q. How many, approximately, do you know, above the age of twenty-one, that can read and write, that are colored?

A. Well, between twelve and fifteen—I am simply guessing, not that I am positive of it.

Q. Twelve or fifteen?

A. Yes, sir.

Q. Do you know what is approximately the population here in the Parish of St. John the Baptist?

A. No, sir.

Q. Do you know approximately the percentage of colored people, in relation to the white people in this Parish?

A. No sir, I don't. I believe that there is less colored people than white people, but I don't know the amount.

Q. Would you say that it is much less, or about half and half?

A. I believe it is less than half and half.

Q. Would you say that about one-third is colored?



A. Well, I couldn't exactly be sure. I am simply guessing at these questions. I believe there are less colored people than white people, but I can't exactly say how many.

Q. Have you ever served on any jury here?

A. Well, yes sir, in my young days.

Q. You mean before 1896?

A. Yes sir.

Q. You have never served since then, have you?

[fol. 82] A. No sir.

### Cross-examination.

Mr. Conzelmann:

Q. Where do you live?

A. In the First Ward.

Q. Where did Hugh Pierre live?

A. In the First Ward too.

Q. Do you know him very well?

A. Yes sir.

Q. How long have you known him?

A. Pretty nearly all his days. He was born and raised in my neighborhood, a few houses from mine.

Q. Is there anybody in his family married to anybody in your family?

A. Yes sir, one of his brothers is married to my daughter.

Q. You say you don't know how to read and write very well?

A. I know a little—I can read the newspaper and pick out the letters. I could not say I am educated.

Q. Do you think that if you read a paragraph of the Constitution that you could interpret it after you read it?

A. I don't know—I never read it.

Q. How many colored people in this Parish did you say know how to read and write, that you know of?

A. Well, I'll tell you, I told the gentleman a while ago between twelve and fifteen, but that was a guess around my home in the First Ward, but not of the Parish.

Q. How many are there around your neighborhood?

A. I just guess it is around twelve or fifteen that can read and write.

Q. What are the ages of those parties—are they over 21—are any of them over 65?

A. Well, a good many of them that I know are over 21.

Q. Are there any of them over 65?

A. I don't believe.

[fol. 83] Q. Suppose you give us the names and the addresses of these twelve or fifteen that you say know how to read and write?

A. I will have to think a while. I would like to give the names, and to be sure of what I am doing. It is simply a guess. I am not sure that probably some of the names that I would give you would be 21. That is why I told you that it was simply guessing. Maybe some of them are not twenty-one that I am counting—I don't know.

The Court:

Q. How many would you say are not twenty-one, about?

A. That question surprises me. I can't make up my mind exactly.

Q. How old are you, Charley?

A. I am 67.

Q. Do you remember when you served on a jury last in this Parish?

A. I don't think that I could remember the year, it has been so long ago. It was at the time of Judge Ross.

Q. Was Mr. Gervais Leche the District Attorney at that time, or Mr. Prentiss Edrington, or Mr. Perkins, at the time that you served on the jury?

A. I am not sure. I remember the District Attorneys, but I am not positive which one of them. I remember all three of them that you mentioned, but I am not sure at the time that I served that it was Judge Leche—I mean the old man, at the time. I can tell you at the time I served—do you remember Mr. Voisan?

Q. Do you mean Mr. Mark Voisan that worked in the Sheriff's office?

A. Yes sir.

Q. It was at that time, in 1896 and 1897?

A. Yes sir.

Q. That was before Mr. Hart was Sheriff?

A. At the time I served, Mr. John Weber was Sheriff.

Q. At that time, wasn't the colored population of the Parish much larger than the white population, in the Parish of St. John the Baptist?

A. As far as I can remember, it didn't seem so, no.

[fol. 84] Q. It was, wasn't it?

A. At that time I imagine that they were about even—the white and the colored people were about even to me. That

is a guess, you see. I believe that there were about as many of one kind as there were of the other.

Q. You remember me, don't you?

A. Yes sir.

Q. Do you remember me as a boy here, a little boy in short pants?

A. I don't remember you in short pants, but I remember you.

Q. You never served as a juror when I was practicing law?

A. No sir.

Q. Did you serve as a juror at the time that Judge Gaudet was Judge?

A. At the time I served on the jury, it was Judge Ross.

Q. Do you remember the time when Harper was tried for killing Ben Tilden?

A. Yes sir.

Q. Was it before that, or after that?

A. As far as I believe, it was before that.

Q. The courthouse is different today than it was then?

A. Yes sir.

Q. You say you are 60 years old?

A. I am 67.

T. J. NAGEL, after being duly sworn, testified as follows:

Direct examination.

Mr. Woulfe:

Q. Mr. Nagel, do you live in this Parish?

A. Yes sir.

Q. How old are you?

A. 58—nearly 59.

Q. Mr. Nagel, do you know approximately that is the negro population in this Parish, to the best of your knowledge?

[fol. 85] A. I could not tell you. I used to be pretty well posted, but I am not any more. Our population has increased to such an extent that I can't tell you.

Q. Are there many negroes in this Parish?

A. There are quite a few.

Q. Would you approximate the amount of negroes in this Parish, above the age of 21, that can read and write—males?

A. No.

Q. Would you say that it is more than one?

A. Yes, it is more than one, and more than two.

Q. Would you say it is more than two or three hundred?

A. No, I don't suppose—I don't know. I am in no position to tell you at all.

Q. Would you say it is more than a hundred?

A. I could not say.

CLARENCE SORAPARU, after being duly sworn, testified as follows:

Direct examination.

Mr. Woulfe:

Q. How old a man are you?

A. Thirty-one.

Q. You are colored?

A. Yes sir.

Q. Can you read and write?

A. Yes sir.

Q. Have you ever served on any jury in this Parish?

A. No sir.

Q. Have you ever been called to serve on any jury in this Parish?

A. No sir.

Q. Do you know other colored men above the age of 21, that can read and write in this Parish, that are residents?

A. I know a few of them.

Q. Where do you live?

A. In Lucy, the First Ward.

Q. Do you know how many men, approximately, above the [fol. 86] age of 21, colored, that can read and write, in this Parish?

A. No, I could not tell you exactly, but there are quite a number of them. Maybe a hundred and fifty, you may say, or more.

Q. What kind of work do you do?

A. I am farming.

Q. Do you know approximately, in regard to the population of this Parish, what is the approximate percentage of negroes in this Parish?

A. No sir, I could not tell you—I have never studied that.

Q. Are there a few of them?

A. Well, probably you can say maybe as high as twenty per cent—I don't know about that. That is according to my opinion.

Cross-examination.

Mr. Conzelmann:

Q. How old are you?

A. 31.

Q. What school did you go to?

A. To the rural school in Lucy, and very little elsewhere.

Q. What grade did you go to?

A. Eighth Grade.

Q. You say you are a farmer?

A. Yes sir.

Q. What is the population of the Parish, do you know?

A. No sir, I could not tell you.

Q. How can you estimate the percentage of colored as against the total population, if you don't know the population of the Parish itself?

A. That is a matter of opinion, Mr. Conzelmann.

Q. When you say that the colored population is about twenty per cent of the total population, you are just guessing?

A. It is a matter of opinion, yes sir.

Q. Your opinion is your guess?

A. Sure.

Q. You said that you know a hundred and fifty negroes in this Parish that know how to read and write?

A. I don't know them—I said there are approximately that many. I know a few, but not that many.

[fol. 87] Q. Then you don't know a hundred and fifty. How many would you say that you know that really know how to read and write?

A. Probably a dozen.

Q. Where do they live?

A. They live around my neighborhood, around Lucy—I know one in LaPlace.

Q. Who is that one?

A. Professor Reed Augustus.

Q. He is a professor in the school there?

A. I don't know that he is reaching any more—he used to teach.

Q. How old is he?

A. I could not tell you his age.

Q. Do you know the qualifications of a juror? Do you know what qualifications a person has to possess to serve on a jury?

A. No sir, I never did know that.

Q. Who else do you know that knows how to read and write?

A. My whole family knows how to read and write.

Q. What does that consist of, your whole family?

A. Three brothers and four sisters.

Q. How old are the brothers?

A. They are above 21.

Q. Have any of them ever been charged with any crime, or offense, in this Parish?

A. No sir, not that I know of.

Q. Have you ever been in court for anything?

A. No sir.

Q. Have any of your brothers ever been?

A. Not that I know of.

Q. Who else do you know?

A. F. N. Danvant.

Q. He said he knows a little bit about how to read and write. Do you mean the witness that was on the stand?

A. Yes sir.

Q. You don't know how much these parties can read and [fol. 88] write, do you?

A. No sir.

Q. Do you know whether Danvant ever went to school or not?

A. No sir—he is older than I am, so I don't know where he went when he was young.

Q. Who else do you know?

A. I know his son, Newton Danvant.

Q. Do you know how old he is?

A. I don't know his exact age, but he can't be over five or six years older than I am.

Q. How do you know that he knows how to read and write?

A. Because I have seen him sign things.

Q. Can't a man sign things and not know anything else?

A. Perhaps so.

Q. Don't you think that his own father would have said

that he knew how to read and write—he said he didn't know of anybody?

A. I don't know what his daddy would say.

Q. Do you mean that when a man writes his name, that he knows how to read and write?

A. I imagine he knows how to write.

Q. You imagine that any man that can sign his name, can read and write?

A. Perhaps there are some that can't do any other thing but sign their name.

Q. I ask you, would you consider a man who can write his name, that he knows how to read and write?

A. Well, no.

Q. Who else do you know?

A. Well, at present, I could not say.

Q. That is about six that you know?

A. Yes sir.

The Court:

Q. Six, except the professor that you talked about, that live around Lucy?

[fol. 89] A. Yes sir.

Q. Lucy is what they call the First Ward of this Parish?

A. Yes sir.

Q. And this man that is charged with this crime, for which he is going to be tried, lived in the First Ward, didn't he?

A. Yes sir.

Q. He lived in Lucy?

A. Yes sir.

Q. In what they call the entourage community?

A. Yes sir.

Q. That is the people that you are talking about, that know how to read and write?

A. Yes sir.

Q. Are you related in any way, by blood or marriage, or kin, to this man Pierre?

A. No sir.

A. L. Brou, after being duly sworn, testified as follows:

Direct examination.

Mr. Woulfe:

Q. Mr. Brou, you were formerly the Clerk of Court?

A. Yes sir.



Q. How long have you lived here in this Parish?

A. All my life—about 46 years.

Q. Do you know approximately the population of this Parish?

A. That would be only guesswork—about twelve or fifteen thousand.

Q. Do you know approximately what percentage of that population is made up of negroes?

A. I could not say, sir.

Q. Would you say that it is twenty, or thirty, or fifty per cent?

A. I would say about thirty per cent, yes sir.

The Court:

Q. When you say thirty per cent, do you take in men, [fol. 90] women and children?

A. That includes everybody.

Mr. Woulfe:

Q. Of that thirty per cent, do you know approximately the number of negroes, over the age of 21 years, that can read and write?

The Court: What we are trying to ascertain, Mr. Brou, keeping in mind always the fact that we are trying to ascertain what is the average population of the colored race of this Parish, who, if called, could qualify as jurors, and that means male persons. Under our law, a female may come and apply and signify her intention to perform jury duty. Male people who could qualify as jurors, and not the male population of this Parish, over the age of 21 years. What percentage would you say there are?

A. What percentage of that particular race can read and write, above the age of 21?

Q. Who are qualified, under our law to serve as petty jurors?

A. I wouldn't say more than about two per cent of that thirty per cent.

Mr. Woulfe:

Q. Would you say that it was more than one person?

A. Yes sir, I would say that.

Q. Would you be able to estimate in figures, just how many?

A. I don't think I could, right offhand. It would be a pretty hard matter. Besides, I don't know them all.

Q. Would you say it would be more than two or three hundred?

A. It wouldn't be two hundred, I don't hardly think.

Q. Would it be more than one hundred?

A. I doubt if it would be that much.

Q. You don't know of any amount?

A. No sir—I don't believe it would go to one hundred.

Q. It would be more than one or two, wouldn't it?

A. Yes sir.

[fol. 91] IGNACE HILLAIKE, after being duly sworn, testified as follows:

Direct examination.

Mr. Woulfe:

Q. How old a man are you?

A. 48.

Q. You are a colored man?

A. Yes sir.

Q. How long have you lived in this Parish?

A. I was born and raised here.

Q. Can you read and write?

A. A little bit.

Q. What do you mean by a little bit—can you read a newspaper?

A. No, I can't read a newspaper. Sometimes I read some portion, you know.

Q. Some portions you can read, and some portions you can't?

A. Yes sir.

Q. How well can you write?

A. Well, I can write.

Q. Can you write a letter?

A. Sure I write a letter.

Q. Have you ever been a juror in this Parish?

A. No sir.

Q. Have you ever been summoned as a juror?

A. No sir.

Q. Do you know other colored men, above the age of 21, that can read and write, that reside in this Parish?

A. Yes sir.

Q. Approximately how many do you know, above the age of 21, that can read and write?

A. Well, I can say about fifteen around here that I know, around the courthouse.

Q. Do you know approximately how many negroes live in the Parish?

A. No sir.

Q. Is it many, or a few?

A. It is plenty.

Q. Do you know approximately how many negroes, above the age of 21, that can read and write, that reside in this Parish?

A. About fifteen that I know around here.

Q. There are fifteen that you personally know that can [fol. 92] read and write, is that it?

A. Yes sir.

Q. And you, of course, don't know how many others besides those fifteen there are?

A. No sir.

#### Cross-examination.

Mr. Conzelmann:

Q. You say you don't know how to read and write very well, do you?

A. Yes, I know a little bit, but I don't know everything.

Q. If you were to read something, do you think you would know what you read?

A. Why sure I know, after I read and write it.

Q. Do you think that, after you read something, you could explain it afterwards?

A. Sure I could.

Q. Are you sure about that?

A. I am sure about it.

Q. I will show you something, and ask you to read it and then explain it to me. Read Article 9 there—read it and see if you can explain it to me?

A. They're got some words there I don't know.

Q. I show you Section 9 of the Bill of Rights of the Con-

stitution of Louisiana, and I ask you to read it and explain it to me?

A. Yes, there is a question there I can explain—they cannot be tried without twelve jurors.

Q. That is the only thing that you can explain in there?

A. Yes, that is the only thing I can explain.

Q. The balance of it, you can't understand?

A. Some words I understand good, but some words I can't explain good.

Q. Why not?

A. Because I never read it before.

Q. That is all that you understand in there, that it takes twelve jurors to try a man?

A. Yes.

[fol. 93] Q. That is what you understand about that section there?

A. Yes.

Q. Can you try them with less than twelve, according to that?

A. Well, I could not say.

Q. After you have read it, you could not tell whether you could try them with more or less than twelve, could you?

A. Well yes, I have seen them try them with six.

Q. I didn't ask you that—I say, after you have read this Article here—never mind about what you have seen—after you read this article, you see in there that it must be twelve jurors?

A. Yes.

Q. Is there anything that says that you can try them with more or less than twelve?

A. Yes sir.

Q. Where does it say that?

A. Here it is—it says less than twelve.

Q. How does it say less than twelve?

A. I don't know.

Q. You can't explain it?

A. No.

Q. How old did you say you are?

A. 48.

Q. Are you a married man?

A. Yes sir.

Q. How long have you been married?

A. 19 years.

Q. Have you ever been in this court for anything?

A. Yes sir.

Q. For what?

A. I have been a witness here once.

Q. Was there ever any charge against you for anything—have you ever been here for fighting, or disturbing the peace or anything like that?

A. No sir.

Q. Only as a witness?

A. Yes.

Q. You say you know some people around your neighborhood that know how to read and write?

A. Yes.

Q. Who are they—name one of them?

A. I know my brother Charley can read and write.

[fol. 94] Q. How old is he?

A. I can't tell you how old he is. My brother Romero can read and write.

Q. How old is he?

A. I don't know how old he is.

Q. Who else do you know?

A. I know other people, but I can't call their names. I don't know their right names.

Q. What are their nick names?

A. Artrey Simon.

Q. How old is he?

A. I don't know.

Q. Who else do you know?

A. James Gautier.

Q. How old is he?

A. I don't know.

Q. Who else do you know?

A. Sam Johnson.

Q. How old is he?

A. I don't know.

Q. Who else?

A. Rufert Danove.

Q. Is he related to F. N. Danove?

A. Yes sir.

Q. What relation?

A. His son.

Q. F. N. Danove could not give the names of anybody that could read and write, and yet you come here and give the name of his son?

A. And John Ory.

Q. How old is he?

A. I don't know—and his two sons.

Q. What are the names of his sons?

A. I don't know their names.

Q. Do you know how old they are?

A. No.

Q. How many of these people whose names you have called out to me, have ever been charged with any crime or offense in this court—do you know what I mean?

A. Yes, I know what you mean.

Q. What do I mean?

A. You mean if they ever had charges against them.

Q. Did any of these people ever have any charges against them?

A. I don't know—they may have had, I don't know.

Q. Do you know the qualifications of a juror—do you know the qualifications that a man has to possess to be a competent juror in this Parish, or in the State of Louisiana? [fol. 95] A. No sir, I don't know.

Q. You don't know that a man that has been charged with a crime, or an offense, can't serve as a juror in this Parish?

A. Sure.

Q. If a man has a charge pending against him, he can't serve as a juror, do you know that?

A. No sir.

Q. All of those people that you have named here, you know that they can read and write?

A. Yes sir.

Q. Do you know how old they are?

A. No sir.

Q. And you don't know whether they have a charge pending against them or not?

A. No sir.

Mr Woulfe:

Q. Do you know whether any of those people whose names you have mentioned are over the age of 21?

A. I believe it is only one of them boys—I don't know his age—I don't believe he is 21, Mr. Ory's boy.

Q. All the rest that you have mentioned, are over 21?

A. Yes sir, I believe so.

Mr. Conzelmann:

Q. Do you think they can read and write?

A. As far as I know, I believe so.

Mr. Woulfe: I object to that.

The Court: The objection is good.

JOHN D. REYNAUD, after being duly sworn, testified as follows:

Direct examination.

Mr. Woulfe:

[fol. 96] Q. You are the editor of what paper in this Parish?

A. la Meschacebe.

Q. How old a man are you?

A. Exactly 50.

Q. You have lived in this Parish how long?

A. Fifty years—all of my life.

Q. As a newspaper man, have you any negro subscribers to your paper in this Parish?

A. Well, I am not publishing anymore, but I had negro subscribers.

Q. You are not publishing the paper any more?

A. No sir.

Q. Approximately, how many negro subscribers did you have for your newspaper?

A. About two.

Q. Do you know what the percentage of negroes is in this Parish, to the whites?

A. I am in a position to give you exactly the population of St. John Parish, being the United States enumerator, and I will say that it is about thirteen or fourteen thousand.

Q. Of that, what is approximately the negro population?

A. About three thousand.

Q. Of those three thousand, approximately how many are negro males, above the age of 21, can you estimate that?

A. Well, I could not tell you positively, but about twelve hundred—I could not swear to it, because it is so many years since I — taken the census.

Q. Would you know approximately how many of the twelve hundred can read and write?



A. Well, very few, I can tell you.

Q. Well, approximately?

A. Those that can read and write, can't understand what they read and write.

Q. Would you approximate the number approximately?

A. I wouldn't put it at more than about seventy-five.

Q. You wouldn't put it at one, would you?

Q. No, I would not put it at one, but some of those who can [fol. 97] read and write don't know what they are reading or writing.

Q. But you have reached an estimate that the number that you think can read and write would be about seventy-five, is that correct?

A. Well, intelligently, I wouldn't put it at seventy-five.

Q. What would you put it at?

A. About fifty.

H. R. MARTIN, after being recalled, testified as follows:

Direct examination.

Mr. Woulfe:

Q. Mr. Martin, just what method do you gentlemen use in selecting these three hundred names for this general venire?

Mr. Conzelmann: I would like to know the object and purpose of the question.

Mr. Woulfe: The object and purpose of it is that there was discrimination used in the selection of the names.

Mr. Woulfe: From what source?

Mr. Conzelmann: If you know yourself, Mr. Martin?

A. They were taken offhand.

Mr. Woulfe:

Q. What do you mean by that?

A. Well, for instance, they would come here and fill out the panel with three hundred names.

Q. Do you mean you did that, or the commissioners did it?

A. The commissioners, as a whole. For instance, the commissioner for the Sixth Ward.

The Court: He wants you to tell him how did they go about putting the names in the box?

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A. The names were given by the commissioners. The commissioners were there themselves when the general [fol. 98] venire was drawn. The man from the Sixth Ward, for instance, would have so many names, and they filled out the general venire.

Mr. Woulfe:

Q. You don't know where he got the names from?

A. No, I do not.

Q. Or in what manner?

A. Just offhand. There is no factional line drawn, however, in the general venire, if there is a faction in the Parish.

Q. What do you mean, politics?

A. Yes.

Q. How about race, and color?

A. I don't know anything about race and color.

Q. Were you present—your proces verbal shows that, does it?

A. Yes—you have it.

Q. Did you get the names from Mr. Berthalot, and the rest of these gentlemen—Mr. Vicknair?

A. Yes.

Q. And you have no way of knowing where they got the names from?

A. No

Mr. Woulfe: That is our case, if the court pleases.

[fols. 99-225] Stenographer's certificate to foregoing transcript omitted in printing.

[fol. 226] UNITED STATES OF AMERICA, STATE OF LOUISIANA,  
PARISH OF ST. JOHN THE BAPTIST

#### MINUTES OF PROCEEDINGS

Be it Known, that on this 27th day of the month of December in the year of our Lord one thousand nine hundred and thirty-five, and of the Independence of the United States of America, the one hundred sixtieth,

The Jury Commission in and for the Parish of St. John the Baptist, met at the Clerk's Office in this Parish, after

having been duly notified by the Clerk of the Court for the purpose of purging and replentshing the General Venire List and to select a Grand Jury and to draw the Petit Jury for the term of court to be held and begun on the Fourth Monday in January, 1936.

Present: Albert Montegut, Arthur Duhe, Sidney Faucheux, and H. R. Martin, Clerk.

Absent: Edward J. Berthelot, and Albert Vicknair.

And the said Jury Commission in the presence of Felix Berthelot and A. Chapoton, competent witnesses, of lawful age, competent to read and write the English language, residents of this Parish summoned by the Clerk for that purpose, have selected from the persons qualified to serve as Jurors for this Parish the following three hundred names of competent and good persons a list of whom was made by the Clerk of Court under the supervision of said Jury Commission and witnesses, as follows:

No.	Names	Ward
1.	M. T. Haik	1
2.	Dr. M. Cognevich, Jr.	1
3.	Albert J. Berthelot	1
4.	Maurice St. Pierre, Sr.	1
5.	Berney Tassin	1
6.	John D. Reynaud	1
7.	Emilien Borne	1
8.	L. P. Debautte	1
9.	Adolphe Sigur	1
10.	Leon Borne	1
11.	Roy Borne	1
12.	Emile Granier	1
13.	Leonard Millet	1
14.	S. J. Kroll	1
15.	Onezime Dufresne	1
16.	Clerville Trosclair	1
17.	Eddie Granier	1
18.	Edmond Trosclair	1
19.	Joseph Bonneville	1
20.	Eddie Desroche	1
21.	Wolford Froll	1
22.	Paul J. Champagne	1
23.	Noe Gendron	1
24.	Walton Darensbourg	1
25.	Philip Webre	1

No.	Names	Ward
26.	Arnaud Tassin .....	1
27.	Nemour Fabre .....	1
28.	N. E. Beauvois .....	1
29.	Andre Borne .....	1
30.	Lionel J. Champagne .....	1
31.	Maurice St. Pierre, Jr. ....	1
32.	Roger St. Pierre .....	1
33.	F. N. Dinfant .....	1
34.	Michel Lanous .....	2
35.	George Haydel .....	2
36.	Stanilaus Hymel .....	2
37.	Emile Dutriex .....	2
38.	Albin Roussel .....	2

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39.	Hamilton Haydel .....	2
40.	Oliver Smith .....	2
41.	Claude Songy .....	2
42.	Lezin Perret .....	2
43.	Felicien Tassin .....	2
44.	Wiltz Faucheux .....	2
45.	Alfred Faucheux .....	2
46.	Herman Webre .....	2
47.	Ed. C. Roussel .....	2
48.	Isaie Tassin .....	2
49.	Ruffin Leroux .....	2
50.	Leopold Borne .....	2
51.	Henry Boudreaux .....	2
52.	Whitney Becnel .....	2
53.	Alfred Chapoton, Sr. ....	2
54.	Eddie Borne .....	2
55.	Joseph C. Faucheux .....	2
56.	Bert Amedee .....	2
57.	O. J. Becnel .....	2
58.	Edgard Webre .....	2
59.	Paul Gendron .....	2
60.	Elmo Madere .....	2
61.	Paul Zeringue .....	3
62.	Henry B. Tassin .....	3
63.	S. A. Faucheux .....	3
64.	Ignace Faucheux .....	3
65.	Oliver Dufresne, Jr. ....	3
66.	Valcour Rodrigue .....	3

No.	Names	Ward
67.	M. F. Tassin .....	3
68.	William Perret .....	3
69.	Robert Dufresne .....	3
70.	Arnold Fauchaux .....	3
71.	Antoine Aubert .....	3
72.	Henry Burch .....	3
73.	Joseph H. Dufresne .....	3
74.	Elmo Tregre .....	3
75.	Clifton Tassin .....	3
76.	Albert Gravois .....	3
77.	Fergus Fauchaux .....	3
78.	Sidney Borne .....	3
79.	Luc Songy, Jr. ....	3
80.	Frank Chabaud, Jr. ....	3
81.	Emile Tassin .....	3
82.	Theodore Roussel .....	3
83.	Aubert Zeringue .....	3
84.	Willie Melancon, Jr. ....	4
85.	Charley Milliotto .....	4
86.	Regis Oubre .....	4
87.	Ellis J. Reine .....	4
88.	Henry Marino .....	4
89.	Santo Zito .....	4
90.	Benney Champagne .....	4
91.	Emile Champagne .....	4
92.	Augustia Madere .....	4
93.	Emile Petrolia .....	4
94.	Camille Perilloux .....	4
95.	Lawrence Wimprenne .....	4
96.	Adam Schexanyder .....	4
97.	William Madere .....	4
98.	Cleveland Perilloux .....	4
99.	Frank Schloesser .....	4
100.	Frank Coquit .....	4
101.	Joe Milliotto .....	4
102.	L. J. Vicknair .....	4
103.	Walter Vicknair .....	4
104.	J. A. Blanchard .....	4
105.	Felix Simoneaux .....	4
106.	Gaston Duhe .....	4
107.	Alberic Simoneaux .....	4
108.	Gaston Duhe .....	4
109.	Leonard Duhe .....	4



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No.	Names	Ward
110.	Elmore Madere	4
111.	George Jacob	4
112.	Achille Aucoin	4
113.	Nelson Haydel	4
114.	Willie Keating	4
115.	Henry Madere	4
116.	Felicien Danoux	4
117.	Optimee Tregre	4
118.	C. S. Hosea	4
119.	Julien Haydel	4
120.	Norbert Berthelot	4
121.	Sidney Brady	4
122.	Willie Bossier	4
123.	James Bossier	4
124.	H. Wimprenne	4
125.	Amedee Clement	4
126.	Walter Edler	4
127.	Albert Bailey	4
128.	Charles Bailey	4
129.	Preston Duhe	4
130.	Peter Conrad	4
131.	Shelby Traficano	4
132.	Louis Martin	4
133.	Oliver Oubre, Jr.	5
134.	Albert Poche, Jr.	5
135.	Louis Millet	5
136.	Paul Camallo	5
137.	Stradley Ocmand	5
138.	Peter Williams	5
139.	Olidee Ocmand	5
140.	Optimee Delaneuville	5
141.	Pamphile Webre	5
142.	Ulysse Dufresne, Jr.	5
143.	Robert LeBlanc	5
144.	Dewey Delaneuville	5
145.	Malone Templain	5
146.	Elmore Ruiz	5
147.	Larry Williams	5
148.	Ivy Jacob	5
149.	Alexander Brady	5
150.	S. D. Brown	5

No.	Names	Ward
151.	Elmer Hebert	5
152.	Oliver Duhe	5
153.	Eugene Delaneuville	5
154.	Eddie Madere	5
155.	Samuel Jacob	5
156.	Harry Badeaux	5
157.	Martin C. Ruiz	5
158.	Folger Trosclair	5
159.	Francis Cambre	5
160.	Carlo Saragusa	5
161.	Henry Catoire	5
162.	Ozemee Vicknair, Jr.	5
163.	Emile Batard, Jr.	5
164.	Ambroise Duhe	5
165.	Wilfred Duhe, Jr.	5
166.	Jean Baptiste Boe	5
167.	Percy Keller	5
168.	Edward F. Millet, Sr.	5
169.	Ellis Cambre	5
170.	Williard H. Thomas	5
171.	Rene Englade	5
172.	John Audiffred, Jr.	5
173.	Ernest Martin	5
174.	Arthur Voisin	5
175.	Eddie Gautreaux, Jr.	5
176.	Eric Courtade	6
178.	Suplice Amedee	6
179.	Sam Millet	6
180.	Leo Barbier	6

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181.	Philip Chauvin	6
182.	Lionel Comeaux	6
183.	Leonce Montz	6
184.	Gilbert Gorio	6
185.	Lamana Monica	6
186.	Romain Tregre	6
187.	Edward Simon, Jr.	6
188.	Sam Polito	6
189.	Felix Millet	6
190.	Roy Perano	6
191.	Lyman Rosenberger	6
192.	Murphy Torres	6

No.	Names	Ward
193.	Charles LeBlanc .....	6
194.	Richard Ory .....	6
195.	Wilfred Millet .....	6
196.	Willie Benoit Schexnayder .....	6
197.	Raoul Boe .....	6
198.	Noland Badeaux .....	6
199.	Claude J. Brock .....	6
200.	M. S. Gaudet .....	6
201.	Lloyde Gregoire .....	6
202.	Appolinaire Rome .....	6
203.	Andrew Stien, Jr. ....	6
204.	Anicent Schexnayder .....	6
205.	James Trosclair .....	6
206.	Albert Jones .....	6
207.	Marcelin Ory .....	6
208.	Alfred Varret .....	6
209.	Charles Falgoust .....	6
210.	William Millet .....	6
211.	Alfred Scionneaux .....	6
212.	Arthur J. Hymel .....	6
213.	John Landry .....	6
214.	Sam Sawaya .....	6
215.	Alphonse Bergeron .....	6
216.	Amedee Kliebert .....	6
217.	Ferduice Millet .....	6
218.	Max Lassere .....	6
219.	Faustin Abadie .....	1
220.	Eddie Granier .....	1
221.	Jules Gendron .....	1
222.	Paul Champagen .....	1
223.	Earl Webre .....	2
224.	Rene Keller .....	2
225.	Louis Borne .....	2
226.	James Carreras .....	2
227.	Nemour Faucheux .....	2
228.	Albert Becnel .....	2
229.	Y. B. Terrebonne .....	2
230.	Ellis Roussel .....	2
231.	Malcolm Chapoton .....	2
232.	Arthur Aubert .....	3
233.	Marcelin Tregre .....	3
234.	Leo Genier .....	3
235.	Denis Dufresne .....	3

No.	Names	Ward
236.	Sidney Guadet	3
237.	Lucien Fauchoux	3
238.	Ben Dufresne	3
239.	Nemour Granier	3
240.	Max Waguespack	3
241.	Aubin Tassin	3
242.	Roger Abadie	3
243.	Florien Tassin	3
244.	Cyril Larose	3
245.	Emile Oncale	4
246.	Entremont Schexnayder	4
247.	Lionel Alexander	4
248.	Marcelin Clement	4
249.	Allen Montz	4
250.	Amedee Clement	4

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251.	Claude Cambre	4
252.	Clarence Clement	4
253.	Joe Marino	4
254.	Jorda Gendron	4
255.	Charlie Songy	5
256.	Taugan Kliebert	5
257.	Earl Elfer	5
258.	Clarence Breaud	5
259.	Samuel Jacob	5
260.	Michel Rome	5
261.	Edward Millet, Jr.	5
262.	S. Dantin	5
263.	Lance Montz	5
264.	Francis Chapoton	5
265.	Eddie Breaud	5
266.	Ferduice Millet	6
267.	Noland Badeaux	6
268.	Omere Ory	6
269.	Eugene Trosclair	5
270.	Paul Bourgeois	6
271.	Sam Amedee	6
272.	Tony Miano	6
273.	Emanuel Poche	6
274.	Romain Tregre	6
275.	Edward Simon, Jr.	6
276.	R. E. Rosenberger	6

No.	Names	Ward
277.	Murphy Torres	6
278.	Dave Perret	2
279.	David Webre	2
280.	George Roussel	2
281.	Prudent Debautte	1
282.	Rene Webre	1
283.	Adolph Sigur	1
284.	Henry Boudreaux	2
285.	Whitney Keller	2
286.	Sidney Roussel	2
287.	Clarence Roussel	3
288.	Robert Cazenave	3
289.	Frank Schexnayder	3
290.	Fernand Tregre	3
291.	Douglas Cambre	4
292.	Preston Montegut	4
293.	Icar Hymel	4
294.	Raphael Songy	4
295.	Ernest Duhe	5
296.	Raoul Lumanais	5
297.	Oliver Oubre, Sr.	5
298.	Stanley Madere	6
299.	John Duhe	6
300.	Robert Lambert	6

Each of the names of the said list had been written by the Clerk on a separate slip of paper together with the number of the Ward or place of residence of such person and the slips of paper or ballots containing the names selected have been placed by the Jury Commission in a box labelled General Venire Box.

And immediately thereafter the said Venire list had been completed, the Jury Commission, selected therefrom the following twenty names of citizens to be subject to duty as Grand Jurors for the term of Court to be held and begun on the 2nd Monday of January, 1936, to-wit:

No.	Name	Ward
1.	Prudent Debautte	1
2.	Rene Webre	1
3.	Adolph Sigur	1
4.	Henry Boudreaux	2
5.	Whitney Keller	2

No.	Name	Ward
6.	Sidney Roussel .....	2
7.	Clarence Roussel .....	3
8.	Robert Cazenave .....	3
9.	Frank Schexnayder .....	3
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10.	Fernand Tregre .....	3
11.	Douglas Cambre .....	4
12.	Preston Montegut .....	4
13.	Icar Hymel .....	4
14.	Raphael Songy .....	5
15.	Ernest Duhe .....	5
16.	Raoul Lumanais .....	5
17.	Oliver Oubre, Sr. ....	5
18.	Stanley Madere .....	6
19.	John Duhe .....	6
20.	Robert Lambert .....	6

Which names of persons so selected have been written on slips of paper by the Clerk of Court in presence of the Jury Commissioners and witnesses and the said slips were placed by the said Jury Commission in an envelope which was sealed and endorsed List of Grand Jurors.

And the slips contained in the General Venire Box having been well mixed by Mr. Sidney Fauchaux, one of the members of the said Jury Commission in the presence of the others and the witnesses above named has drawn from said Venire Box one at the time the following thirty names of persons to serve as Petit Jurors for the week beginning Monday, January 27, 1936, to-wit:

No.	Name	Ward
1.	Claude Songy .....	2
2.	Cleveland Perrilloux .....	4
3.	Charlie Milioto .....	4
4.	William Millet .....	6
5.	O. J. Becnel .....	2
6.	Elmer Hebert .....	5
7.	Murphy Torres .....	6
8.	Samuel Jacob .....	5
9.	Leo Barbier .....	6
10.	Lionel Alexander .....	4

No.	Name	Ward
11.	Charles Leblanc .....	6
12.	Emile Dutriex .....	2
13.	Maurice St. Pierre .....	1
14.	George Jacobs .....	4
15.	Percy Keller .....	5
16.	Willie Benoit Schexnayder .....	6
17.	Peter Williams .....	5
18.	Sidney Borne .....	3
19.	Wilfred Duhe, Sr. ....	5
20.	Robert Dufresene .....	3
21.	Henry Marino .....	4
22.	Sam Amedee .....	6
23.	David Webre .....	2
24.	Arnaud Tassin .....	1
25.	Joseph Bossier .....	4
26.	Whitney Becnel .....	2
27.	Emile Oncale .....	4
28.	Antoine Aubert .....	3
29.	Sam Millet .....	6
30.	Luc Songy, Jr. ....	3

Which was sealed envelope containing the names of Petit Jurors and those of Grand Jurors were placed by the Jury Commission in a box provided for that purpose, which was sealed and locked and placed in the Custody of the Clerk, for use at the next session of the 24th Judicial Court to be held and begun on the 2nd Monday, January 13, 1936.

In faith whereof, the said Jury Commission have signed these presents on the day and date hereinabove first written.

Witnesses:

(Signed) Alfred Chapoton, Felix Berthelot, Sidney G. Faucheux, Arthur Duhe, Albert Montegut.

(Signed) H. R. Martin, Clerk of Court, ex-officio  
Notary Public.

A true copy of the original.

H. R. Martin, Clerk. (Seal.)



[fol. 232] IN SUPREME COURT OF LOUISIANA

#34742

STATE OF LOUISIANA

versus

HUGH PIERRE

Appeal from the Twenty-fourth Judicial District Court,  
Parish of St. John the Baptist

Hon. L. Robert Rivards, Judge

OPINION—March 7, 1938

O'Niell, C. J., dissents and hands down reasons.

ODOM, J.:

Defendant was charged with murder, tried, convicted as charged, and sentenced to be hanged. He appealed, and for reversal relies on three bills of exception.

He filed a motion to quash the indictment on the following grounds:

"That the general venire box for the Parish of St. John, did not contain the names of any negro at the time the panel for the Grand Jury was drawn, which returned the Indictment herein against mover; that the officers of the law in charge of said matter not only failed to place in said venire box the names of any negroes qualified to serve as Grand or Petit Jurors but deliberately excluded therefrom the names of any negroes qualified to serve as Grand or Petit Jurors, which action on the part of said officers is a denial of due process of law, and is a violation of movers constitutional rights as granted him by the Constitution of the State of Louisiana, of 1921, and specially the 14th Amendment of the Constitution of the United States of America.

"Mover further shows, that he is informed and believes and so avers that there has not been a negro on the Grand Jury or Petit Jury of said Parish for at least 20 years; that the officers of said Parish have systematically, unlawfully and unconstitutionally excluded negroes from the Grand or Petit Jury in said Parish during this period of time; that

this exclusion of negroes as Jurors in this Parish is done solely and only because of their race and color and results in a denial to mover of due process of law and the equal protection of the law guaranteed him under the Constitution of the State of Louisiana of 1921, and the Constitution of the United States of America."

The motion to quash was overruled, and a bill of exception was reserved.

[fol. 233] After conviction he filed a motion in arrest of judgment, based on the same grounds as those which formed the basis of the motion to quash. The motion in arrest was overruled, and a bill was reserved.

During the course of the argument, the district attorney said:

"Gentlemen of the Jury—Finally and in conclusion when they call the roll of the damned already inscribed with the name of Dreher and LeBoeuf, Dalleo and Capaci, Eisenhardt and James, I say to you, make an example of this accused, stamp out cold blooded murder in this Parish by inscribing the name of Hugh Pierre on the roll call of the damned by returning a verdict of guilty as charged."

Counsel for defendant objected to this language because "said statement was prejudicial to defendant, was entirely outside of the evidence presented on the trial of said case and was for the sole purpose of prejudicing defendant before the Jury in making a comparison of the case upon which defendant was being tried with that of cases of banditry and murder".

Counsel requested the court to instruct the jury to disregard the remarks. The court refused to give the requested instruction, and a bill was reserved to the ruling.

Defendant is a negro and was prosecuted for killing a white man. The motion to quash the indictment and that in arrest of judgment are based upon the same grounds and will be considered together. These grounds were successfully urged by the defendant in the case of *Norris v. State of Alabama*, 294 U. S. 587, 55 Sup. Ct. 579, 79 Law Ed. 1074.

In the *Norris* case the Supreme Court reaffirmed its ruling in the earlier cases of *Carter v. Texas*, 177 U. S. 442, 20 Sup. Ct. 687, 44 Law Ed. 839, and in *Martin v. Texas*,

200 U. S. 316, 26 Sup. Ct. 338, 50 Law Ed. 497, where it was said:

“Whenever by any action of a State, whether through its legislature, through its courts, or through its executive or administrative officers, all persons of the African race are excluded, solely because of their race or color, from serving as grand jurors in the criminal prosecution of a person of the African race, the equal protection of the laws is denied to him, contrary to the Fourteenth Amendment of the Constitution of the United States.”

[fol. 234] In the Norris case, the court said:

“And although the state statute defining the qualifications of jurors may be fair on its face, the constitutional provision affords protection against action of the state through its administrative officers in effecting the prohibited discrimination.”

It was said by the court in the Norris case that there was no controversy as to the constitutional principle involved. The same may be said with reference to the case at bar. The constitutional principle which was involved in the Norris case and is involved in the case at bar, is that, if the state, either through legislation, through its courts or its executive or administrative officers, excludes from jury service all persons of the negro or African race in criminal prosecutions of the members of that race, solely because of their race or color, the equal protection of the laws is denied the one prosecuted, under the Fourteenth Amendment to the Constitution of the United States and, in this state, contrary to the Due Process Clause of the Constitution of 1921.

We now recognize that principle, as we have always done. This is shown by the following cases: *State v. Gill*, 186 La. 339, 172 So. 412; *State v. Turner*, 133 La. 555, 63 So. 169; *State v. Baptiste*, 105 La. 661, 30 So. 147; *State v. West*, 116 La. 626, 40 So. 920; *State v. Murray*, 47 La. An. 1424, 17 So. 832; *State v. Joseph*, 45 La. An. 903, 12 So. 934; *State v. Lawrence*, 124 La. 378, 50 So. 406; *State v. Casey*, 44 La. An. 969, 11 So. 583.

In fact, it is specially provided in the law prescribing the method of drawing grand and petit jurors to serve in both civil and criminal cases that “there shall be no distinction

made on account of race, color or previous condition". (Act 135 of 1898, page 216.)

If indeed it be true, as alleged in defendant's motion to quash the indictment, that members of the negro or African race, who possess the necessary qualifications as jurors, prescribed by the statutes, have been systematically excluded from such service in the Parish of St. John, where [fol. 235] this prosecution took place, solely because of their race or color, the indictment should have been quashed, and the motion in arrest of judgment should have been sustained.

The defendant having based his motion to quash and his motion in arrest of judgment upon the ground of such illegal discrimination, the burden was upon him to prove the facts alleged. Such has been the ruling of this court for many years. See *State v. Murray*, *State v. Joseph*, *State v. West*, *State v. Baptiste*, *supra*.

And such is the ruling of the Supreme Court of the United States. *Martin v. Texas*, *supra*. In *Bush v. Kentucky*, 107 U. S. 110, 1 Sup. Ct. 625, a motion was made to quash the indictment on the ground of illegal discrimination from jury service of members of the negro race because of their race or color, and, in disposing of this motion, the court said:

"It is sufficient for this assignment to say that the motion was properly overruled, for the reason, among others, that the grounds upon which it rested do not clearly and distinctly show that the officers who selected and summoned the petit jurors excluded from the panel qualified citizens of African descent *because of their race or color*."

In the case at bar, the defendant asked for, and was granted, the privilege of calling witnesses to support the allegations of his motion to quash. Twelve witnesses were called, including the clerk of court of St. John Parish, who is ex officio chairman of the jury commission; the sheriff of the parish, the superintendent of schools, the editor of a local newspaper who had been a census enumerator; a former clerk of the district court—all white, and four colored citizens of the parish. We have reviewed the testimony of these witnesses and find that defendant failed utterly to prove his allegations. Not only did he fail to prove that there was discrimination against colored citizens

of the parish because of their race or color at the time the grand jury which returned the indictment and the petit jury for that term of court were drawn, but he failed to prove that, as a matter of fact, the names of colored people were not included among the 300 names in the jury box. In fact, the testimony shows that, at the time the grand and petit juries were drawn, the names of at least four colored people [fol. 236] were included in the list of 300 from which the grand jury was selected and the petit jury for that term of court was drawn. Mr. Martin, the clerk of court, said, on examining the general venire list, that there were two, three or four names of colored people included, and the sheriff of the parish testified that he recognized the names of two or three negroes on the list and that there might be more. Both the clerk of court and the sheriff testified that they were not personally acquainted with all of the male citizens of the parish and especially the colored citizens, and that, with more time to check the list, they might find more names than those already pointed out. Mr. Martin, the clerk of court, testified that the name of at least one negro was drawn to serve on the petit jury drawn at the same time that the grand jury sought to be quashed was selected. He and the sheriff both said they did not remember whether negroes had served on juries in that parish in former years or not. A colored man named Soraparu testified that he knew a few negroes who had served on juries in that parish. Another colored man named Dinvant testified that he himself had served on a jury in that parish in his "young days", something like 30 years ago.

The major portion of the testimony introduced by counsel for defendant had reference to the number of adult negro males in the Parish of St. John who could read and write. All other qualifications prescribed by law seem to have been overlooked. The qualifications prescribed are that the person must be a bona fide resident of the parish for one year next preceding such service, not under interdiction or charged with any crime or offense, nor convicted at any time of any crime or offense punishable with hard labor; that he must be able to read and write and be a competent and intelligent person of full age. Under the law, a person of full age may be able to read and write and still not possess the qualifications prescribed by law.

The testimony shows that the population of St. John Parish is between 12,000 and 14,000, and that, of this number, approximately 3000 or 4000 are negroes. No witness knew how many negroes above the age of 21 years in the Parish of St. John are able to read and write. The witnesses called could do no more than estimate the number. These estimates vary. Mr. Reynaud, who had been editor of a local newspaper, testified that only two negroes were subscribers for his paper. He said that he was at one time a census enumerator and that in his opinion there were not more than 75, and probably not over 50, negro men in the parish who could read and write. (Under the Constitution, women cannot be called for jury service unless they express in writing a willingness to serve. As a matter of fact, they are never called.)

Mr. Brou, former clerk of court, testified that in his opinion there were not more than 100 negroes in the parish qualified to serve as jurors. The colored man Soraparu stated that, according to his estimate, there were probably 150 adult negroes in the parish who could read and write. The other colored men called stated that they knew a few colored adults who could read and write, but they did not pretend to state how many of that class lived in the parish.

Mr. Montegut, superintendent of public schools, testified that the population of the parish was approximately 14,000 and of that number possibly 3000 were members of the colored race. On being questioned as to his opinion of the number of colored men in the parish between the ages of 21 and 65 who possessed the qualifications as jurors, he stated that there were possibly 25 or 50. He said that his estimate was purely a guess. In fact, the testimony of all the witnesses as to the number of those qualified for jury service was "guess work".

As we have said, there were at least four and possibly more names of colored citizens on the jury roll of 300. If there are no more than 75 or 100 colored males between the ages of 21 and 65 in the parish who can read and write—and when we consider that some of these may have been disqualified from jury service on one or more of the [fol. 238] grounds stipulated in the act of the legislature—the names of four negroes out of 300 names on the jury roll does not seem disproportionate to the number of whites, and does not, we think, indicate that there was discrimination against the colored race.



Certain it is that the testimony fails to show that there was ever any intentional discrimination against the colored race because of their race or color. The law makes it the duty of the jury commissioners to select men for jury service who are competent and intelligent. They must take into consideration the qualifications prescribed by law. In selecting the names to be placed on the jury roll, the members of the jury commission naturally select the names of those whom they know to be qualified or who they think possess the proper qualifications. It is not their duty to search the parish for members of the colored race who possess the proper qualifications merely in order that there be the names of such persons on the roll. The Supreme Court of the United States has held more than once that a member of a certain race is not entitled as a matter of law to be tried by the members of his own race. *Bush v. Kentucky*, *Martin v. Texas*, *supra*. In the former case, at page 631, the court said:

"There was no legal right in the accused to a jury composed in part of his own race. All that he could rightfully demand was a jury from which his race was not excluded *because of their color*." (Citing *Virginia v. Rives*, 100 U. S. 323.)

What the law prohibits is a discrimination against the negro or African race because of color or previous condition. In the case at bar, there is nothing to show discrimination, and therefore the refusal of the court to quash the indictment and to sustain the motion in arrest of judgment was correct.

The other bill of exception relied on by counsel for defendant was reserved to the refusal of the court to instruct the jury to disregard the remarks made by the district attorney in argument, which remarks we have already quoted. [fol. 239] While the language used by the prosecuting attorney was strong and emphatic, yet, under numerous rulings of this court, the verdict of the jury should not be set aside because of them. Under the uniform jurisprudence of this state, while such language used by a prosecuting attorney may be objectionable, it does not constitute reversible error if the evidence brought out in the trial is such as to warrant the assertions made and where it does not clearly appear that the jury was influenced by such re-



marks. *State v. Clayton*, 113 La. 782, 37 So. 754; *State v. Williams*, 107 La. 789, 32 So. 172; *State v. Forbes*, 111 La. 473, 39 So. 710; *State v. Jones*, 51 La. An. 103, 24 So. 594; *State v. Young*, 114 La. 686, 38 So. 517.

The cases of *Dreher and LeBoeuf*, *Dalleo and Capaci*, *Eisenhardt and James*, referred to by the district attorney, are matters of history in this state. The defendants in those cases were found guilty of murder and were hanged. In the cases of *State v. Dreher and LeBoeuf*, 166 La. 924, 118 So. 85, and of *State v. Genna*, 163 La. 701, 112 So. 655, this court held that a reference to such celebrated cases as the *Loeb-Leopold* and the *Gray-Snyder* cases did not constitute reversible error.

There were other bills of exception reserved by counsel for defendant, but they seem to have been abandoned, as they were not discussed in oral argument before the court and are not in counsel's brief.

For the reasons assigned, the judgment appealed from is affirmed.

O'Niell, C. J., dissents and hands down reasons.

[fol. 240] IN SUPREME COURT OF LOUISIANA

No. 34,742

[Title omitted]

DISSENTING OPINION

O'NIELL, C. J., dissenting:

The defendant's motion to quash the indictment in this case was not only a motion to quash the indictment, but was also a motion to quash the panel of petit jurors drawn for the term of court in which the defendant's case was set for trial. After hearing the testimony on the motion to quash both the grand jury panel and the petit jury panel, the judge sustained the motion so far as the petit jury panel was concerned, and quashed the panel, on the authority of *Norris v. Alabama*, 294 U. S. 587, 79 L. Ed. 1074. The judge found, as a fact, that there was, in the selection of the names in the general venire box and on the general venire list, the discrimination which the defendant com-

plained of. But the judge refused to quash the indictment, or to quash the grand jury panel, from which the grand jury that found the indictment was drawn; and the judge stated, as his only reason for so ruling, that an indictment was merely an accusation, and that the judge was obliged to charge the jury, and always did charge the jury, on the trial of the case, that the mere presentment of an indictment was not evidence of guilt. The distinction which the judge drew, between the petit jury panel and the grand jury panel, was contrary to the ruling of the Supreme Court in *Carter v. Texas*, 177 U. S. 442, 447, 44 L. Ed. 839, 841, and the several decisions there cited. We must bear in mind that the grand jury panel, in this case, was taken from the same general venire list and general venire box that the petit jury panel was taken from. Therefore, when the [fol. 241] judge quashed the petit jury panel because of the invalidity in the selection of the names that were placed in the general venire box and on the general venire list, his ruling had the effect of annulling the grand jury panel, which was drawn from the same list of names in the general venire box.

As an original proposition, I defer to the judgment of the judge of the district court, in his finding of fact with regard to the selection of the names for the general venire list.

[fol. 242] IN SUPREME COURT OF LOUISIANA

No. 34-742

[Title omitted]

PETITION FOR REHEARING

To the Honorable the Chief Justice and Associate Justices of the Supreme Court of Louisiana:

The Petition for Rehearing of Hugh Pierre, Defendant and Appellant herein, respectfully represents:

1

That there is error committed to his prejudice in the judgment rendered by this Court on Monday, March 7, 1938, as will be more fully shown, as follows:

2

That this Honorable Court committed error to his prejudice in maintaining the Judgment of the District Court, in

overruling and refusing to Quash the Grand Jury Venire and Indictment against Defendant and Appellant, and in not maintaining the Motion to Quash and Motion in Arrest of Judgment, filed on Appellant's behalf; that, with due respect to this Court, Counsel urgently shows that your Honors' Judgment and Decree is founded upon misconception, misconstruction and misinterpretation of the ruling of the Supreme Court of the United States, in the case of *Norris vs. State of Alabama*, 294 U. S. 587, 79 Law Ed. 1074, as the Supreme Court of the United States states clearly that the burden resting upon defendant to show discrimination is that he must make out a prima facie case of discrimination; nothing more. See the opinion of the Supreme Court 79 Law Ed. 1081.

## 3

That this Court was in error in deciding that the evidence showed at least four negroes on the Jury Venire. With due respect to this Court, we emphatically state that no such evidence of any negro's name appearing on the jury list or the venire that returned the Indictment against Appellant, can be found, except the name of Ernest Martin, which the Clerk, Martin, testified was a negro; that this name was by mistake in the box. Counsel for Appellant has the greatest respect for this Court's opinion, but respectfully urges that this Court has upset its entire policy, jurisprudence and the clear rule of law, in refusing to accept the Trial Court's findings of fact; that Defendant and Appellant had been discriminated against in the selection of jurors on the [fol. 243] General Venire, Grand Jury and Petit Jury, and whose findings of fact, together with his positive information and judicial knowledge that negroes had been discriminated against and excluded from the roll of jurors, because of their color and race; that the defendant was discriminated against in the selection of the Grand Jury and Petit Jury that indicted him. Your Honors cannot ignore the Trial Court's findings of fact in this case, and when your Honors place a burden of proof upon the shoulders of Defendant that the law does not require, is error of great magnitude, and should not be left to stand for future jurisprudence.

## 4

Your Honors were in error in holding that this case came under the decisions cited in your Honors' opinion at Page

3, for instance, the case of State vs. Gill 186 La. 339. This was a case of a negro murdering his negro children; that the constitutional question was not raised at the proper time. From a mere reading of your Honors' decision, it has no application to the ruling of the Supreme Court in the case of Norris vs. Alabama.

In the case cited by your Honors, State vs. Turner, 133 La. 555, was the murder case of a negro killing a negro; however, Chief Justice Monroe's opinion, as the organ of the Court, is certainly at variance with the holding of the U. S. Supreme Court, in the case of Norris vs. Alabama.

In the case of State vs. Baptiste 105 La. 661, the question alone was submitted on the ex parte affidavit of the Defendant. That was the entire proof offered. Unquestionably, the Court's decision was correct. The Defendant failed to make prima facie proof of the discrimination of negroes from the jury roll, as required by law.

In the case of State v. West, a very significant fact, this Court accepted the findings of fact of the Trial Court. The opinion shows clearly that the accused failed to even prove he was a negro, or that the man killed was a white man. There was no proof whatsoever offered on the Motion to Quash.

In the case of State vs. Murray 47 Ann. 1424, the evidence in that case showed affirmatively that there were negroes on the Grand Jury Panel that indicted the Defendant. The Supreme Court also upheld the Trial Court's findings of fact.

In State vs. Joseph, decided in 1893, the Supreme Court, after reviewing the evidence, took the position the same as this Court has in the present case, that the Defendant was not discriminated against, although the evidence showed on the hearing of the Motion to Quash that the names of no negroes were contained in the venire box from which jurors [fol. 244] were selected. The Court did the same as the Court in the present case, recognized the principle of law, stated in the opinion of the case of Strauder vs. West Virginia, 190 U. S. 303, but nullified the U. S. Court's ruling in its findings of fact, just as is done in the present Court's opinion in this case. In other words, with due respect, we urge that this Court has consistently, from 1893 down to date, avoided and nullified the U. S. Court's decisions on the "*negro question*".

In the case of State vs. Lawrence, the record showed that no proof was even offered whether the man killed was white, or the accused a negro. It was also shown that the source of deriving jurors was from the City Directory, which contained the names of qualified negroes, the same as qualified whites. The significant fact is that the Court in this case followed and maintained the judgment of the Trial Court and refused to go behind its findings of fact.

## 5

Petitioner shows that there is abundant evidence in this record to show that negroes have been consistently excluded from juries in St. John the Baptist Parish for the last forty years, and that this exclusion was on account of their race and color; that Judge Robert Rivard's judgment showed that no negro had been on juries, or chosen, or selected for juries since he has been judge, or since, as he expresses it, "when he was a little boy in short pants". The judge's findings of fact in this matter should be conclusive upon this Court, and counsel challenges the State to show where in one instance except by mistake, a negro was ever selected to serve on any jury in that Parish. As the Supreme Court has said in the Norris vs. Alabama case 79 Law Ed. 1078:

"That testimony in itself made out a *prima facie* case of the denial of the equal protection which the Constitution guarantees. See Neal vs. Delaware, 103 U. S. 370, 21 Law Ed. 567 supra." \* \* \*

Also at Page 1081:

"We think that this evidence failed to rebut a *strong prima facie case* which defendant had made." \* \* \*

## 6

Petitioner further shows your Honors have further erred in your Honors' opinion in not reversing the Lower Court's judgment and sentence, upon the Bill of Exception, reserved by Defendant and Appellant, to the District Attorney's remarks before the jury, as set out in Appellant's brief, and as recognized in the Court's opinion. Your Honors are reminded that this is a Capital case. In the opinion in this case, your Honors state that the District Attorney's remarks, in his closing argument to the jury, were "im-

[fol. 245] proper and objectionable'', to use your Honor's terms. Then what must we further show in a case to secure a reversal than to show improper conduct and remarks on the part of a District Attorney in his address to a jury? We urge your Honors not to advance the rule, as you have set out in the Court's opinion, to require a Defendant to go further and show in what particular he was injured. This requirement is an impossibility to be met. For instance, your Honors would not think, or could not expect a jury to jump up in a jury box and clap when the District Attorney gets through, as probably they would do in a theater. We have laid the facts and circumstances in the Bill of Exceptions in a legal manner, thoroughly and legally sound in form and substance. The objection made, at the time of the argument, a request to the Trial Judge to instruct the jury to disregard same. What more, we ask, could we do? We submit that the language used by the District Attorney is reversible error, plain on the face; that the facts of this case, which were made a part of the Motion for New Trial, must be gone into, as a matter of law, to determine whether the comparisons by the District Attorney in his closing argument were justified or not, and we submit there is no justification at all; that, had Hugh Pierre been a white man, he never would have been tried in any parish for this offense.

## 7

Petitioner further shows that these errors herein are so grave and go to the very essence of the Constitutional rights of this accused, guaranteed him under the Constitution of the State of Louisiana, and of the 14th Amendment of the Constitution of the United States; that to allow said errors to stand would completely break down Constitutional Law for protection of human liberties in this State; that petitioner's counsel did not have the proper time in the original argument before this Honorable Court to specifically point out, as should have been done to your Honors, the consequences and nature of the said errors, as fully shown, in order that this Court would be able to determine their full weight and effect.

Wherefore, petitioner prays this Honorable Court do grant him a Rehearing herein, as the law directs, and that, after due proceedings had, he be granted a rehearing herein,



and that the said case be reassigned for argument, and that same be reversed and remanded for a New Trial, and for all other general and equitable relief, as may be necessary in the premises.

(Signed) Maurice R. Woulfe, George M. Brooks, Attorneys for Defendant and Appellant.

[fol. 246] *Duly Sworn to by Maurice R. Woulfe. Jurat omitted in printing.*

---

[fol. 247] IN SUPREME COURT OF LOUISIANA

ORDER REFUSING REHEARING—April 4, 1938

By the COURT:

No. 34,742. State vs. Pierre

It is ordered that the rehearing applied for in this case be Refused.

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[fol. 248] IN SUPREME COURT OF LOUISIANA

34,742

[Title omitted]

PETITION FOR STAY OF EXECUTION AND DELAY TO APPLY FOR WRITS OF CERTIORARI, REVIEW, OR APPEAL TO THE SUPREME COURT OF THE UNITED STATES OF AMERICA, ON BEHALF OF HUGH PIERRE

To the Honorable the Chief Justice and Associate Justices of the Supreme Court of Louisiana:

The petition of Hugh Pierre, defendant and appellant in the above entitled and numbered cause, through his undersigned attorney, with respect represents:

1

That the opinion and decree of this Honorable Court of Monday, March 7, 1938, affirming the verdict of the jury, and the sentence of the Honorable the 24th Judicial District Court for the Parish of St. John the Baptist, Louisiana,

is final, this Honorable Court having refused an application for Rehearing on the 4th day of April, 1938.

## 2

That your petitioner avers that the said opinion and decree of this Honorable Court deprives him of the rights guaranteed him under the Fourteenth Amendment to the Constitution of the United States of America, in that he is now deprived of his liberty without due process of law, and further that he was denied the equal protection of the laws; which amendment provides, as follows:

"Article XIV, Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and the State wherein they reside. No State shall make or enforce any law which shall abridge the privilege or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

[fol. 249]

## 3

Petitioner further avers that he has been deprived of his rights under the Constitution of the State of Louisiana of 1921, and especially Article 1, Section 2, 9, 15 thereof, which provide, as follows:

Article I, Section 2. No person shall be deprived of life, liberty, or property, except by due process of law.

Section 9. In all criminal prosecutions the accused shall have the right to a speedy public trial by an impartial jury;

Section 15. This enumeration of rights shall not be construed to deny or impair other rights of the people not herein expressed.

That the indictment herein is null and void, in that same was returned by an illegally constituted Grand Jury on which negroes or persons of color were systematically and illegally excluded therefrom on account of their race and color, and that defendant and appellant, being a colored man, was illegally and unconstitutionally discriminated



against on account of his race and color by said exclusion, and the Court's refusal to quash the indictment herein and the Grand Jury Venire that returned same, in violation of defendant's and appellant's constitutional rights granted him under the 14th Amendment to the Constitution of the United States, and the Constitution of the State of Louisiana of 1921.

## 4

Petitioner further avers that he is desirous of applying to the Honorable the Supreme Court of the United States of America for writs of Certiorari and review or appeal to review the decision of this Honorable Court upon the issues hereinabove raised, and as shown by the record of this cause, and that Petitioner desires that he may be granted a stay of execution and delay in which to apply to the Honorable the Supreme Court of the United States of America, and that the decree or mandate of this Honorable Court be stayed so that Petitioner will have an opportunity to present to this Honorable Court their application to the Honorable the Supreme Court of the United States of America for relief.

Wherefore, the premises considered, Petitioner prays that after due consideration, that this Honorable Court grant him a stay of execution, and that he be permitted and granted a delay of ninety (90) days within which to prepare and file his petition for Writs of Certiorari and Review, or Appeal to review the decision of this Honorable Court, and [fol. 250] that the decree or mandate of this Honorable Court be withheld and stayed accordingly until the final disposition of the matter in the Honorable the Supreme Court of the United States of America.

And for all general and equitable relief.

(Signed) Maurice R. Woulfe, Attorney for Petitioner.

STATE OF LOUISIANA,  
Parish of Orleans:

Personally came and appeared, before me, the undersigned authority, Maurice R. Woulfe, who first being duly sworn, deposes and says: That he is the attorney for Hugh Pierre, petitioner in the above and foregoing petition, that he has read the same and knows the contents thereof, and that

all the allegations and facts therein contained are true and correct to the best of his knowledge, information and belief.  
(Sgd.) Maurice R. Woulfe.

Sworn to and subscribed before me, this 4th day of April, 1938. (Signed) Theodore H. McGiehan,  
Notary Public.

#### Certificate

Maurice R. Woulfe, Attorney for Hugh Pierre, Petitioner herein, hereby certifies that the aforesaid petition and application for a stay of execution and delay is made in good faith, and further certifies that he verily believes that said Petitioner is entitled in law to the relief sought.

(Sgd.) Maurice R. Woulfe, Attorney for Petitioner.

New Orleans, La., April 4, 1938.

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#### ORDER STAYING EXECUTION OF JUDGMENT

Let a stay of execution of the Decree of this Honorable Court be granted to Petitioner as prayed for, and let Petitioner be granted a delay of Ninety (90) days within which to prepare and file necessary papers for Writs of Certiorari and Review or Writ of Error, or Appeal to the Honorable the Supreme Court of the United States of America.

(Signed) Charles A. O'Niell, Chief Justice, Supreme Court of Louisiana.

New Orleans, La., April 4, 1938.

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[fol. 251] IN SUPREME COURT OF LOUISIANA

No. 34,742

[Title omitted]

#### ORDER ALLOWING WITHDRAWAL OF RECORD

On motion of Maurice R. Woulfe, attorney for the Defendant and Appellant herein and on suggesting to this Honorable Court that an appeal and application for writ of certiorari has been taken in this matter to the United States Supreme Court, and that it is necessary that the record of the Twenty-fourth Judicial District Court, Parish of St. John the Baptist, Louisiana, as filed in this Court

should be withdrawn from this Honorable Court in order that the same may be filed with the Clerk of the Supreme Court of the United States, in order to perfect the appeal herein taken.

It is Ordered by the Court that Mover be and he is hereby permitted to withdraw one copy of the record filed herein by the Clerk of the Twenty-fourth Judicial District Court, Parish of St. John the Baptist, Louisiana, same to be used for the purpose of perfecting the appeal and application for writ of certiorari to be filed in the United States Supreme Court.

(Signed) Charles A. O'Niell, Chief Justice of the Supreme Court of Louisiana.

New Orleans, La., June 9, 1938.

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[fol. 252] Clerk's certificate to foregoing transcript omitted in printing.

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[fol. 253] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed October 17, 1938

The petition herein for a writ of certiorari to the Supreme Court of the State of Louisiana is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

---

[fol. 254] SUPREME COURT OF THE UNITED STATES

STIPULATION AS TO PRINTING RECORD—Filed June 22, 1938

It is stipulated and agreed by and between Maurice R. Woulfe, Counsel for Petitioner, and James O'Conner, Assistant Attorney General, State of Louisiana, Counsel for the State of Louisiana, that, in order to save expense in the printing of the record herein, the following portions of the record, the same being sufficient to show the errors complained of, shall be printed, and no more, to-wit:

Record

- |  |                                     |
|--|-------------------------------------|
| 1. Copy of Indictment with notations of verdict and sentence | P. 20                               |
| 2. Copy of Motion to Quash Indictment                        | P. 21                               |
| 3. Evidence taken on hearing of Motion to Quash              | P. 61-99, inc., 37-49 inc., 226-231 |

## Record


4. Judgment of Trial Court on Motion to Quash ..... P. 22 & 23
5. Bill of Exception #1 taken to overruling Motion to Quash ..... P. 28
6. Per Curiam to Bill of Exception #1 ..... P. 29 & 30
7. Notation showing filing of record from 24th Judicial District Court, Parish of St. John the Baptist, Louisiana, to the Supreme Court of Louisiana. .... (Cover of Tr.)
8. Judgment of the Supreme Court of Louisiana (Extract from minutes).
9. Opinion and decree of the Supreme Court of Louisiana and dissenting opinion Mr. Chief Justice Charles O'Neil.
10. Application for Rehearing.
11. Rehearing refused by the Supreme Court (Extract from minutes).
12. Petition for stay of execution with order of Court granting same.
13. Petition for Writ of Certiorari to United States Supreme Court and order thereon.
14. Accompanying Brief for Writ of Certiorari.
15. Motion and order of Supreme Court of Louisiana allowing withdrawal of copy of the transcript of appeal from the 24th Judicial District Court for the [fol. 255] Parish of St. John the Baptist, Louisiana, and filed in the Supreme Court of Louisiana to be forwarded to the Supreme Court of the United States, as part of the Petition for Writ of Certiorari to that tribunal.
16. Clerk's Certificate.

Maurice R. Woulfe, Counsel for Petitioner. James O'Connor, Assistant Attorney General, Counsel for State of Louisiana.

[fol. 256] [File endorsement omitted.]

Endorsed on cover: In forma pauperis. File No. 42,627. Louisiana Supreme Court. Term No. 142. Hugh Pierre, petitioner, vs. State of Louisiana. Petition for a writ of certiorari and exhibit thereto. Filed June 22, 1938. Term No. 142, O. T., 1938.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1938

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No. 142

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HUGH PIERRE.

STATE OF LOUISIANA.

---

PETITION FOR WRIT OF CERTIORARI TO THE  
SUPREME COURT OF THE STATE OF LOUISIANA  
AND BRIEF IN SUPPORT THEREOF.

---

MATTHEW B. WHITE.

*Counsel for Petitioner.*





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**SUPREME COURT OF THE UNITED STATES**

**OCTOBER TERM, 1938**

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**No. 142**

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**HUGH PIERRE,**

*vs.*

*Petitioner,*

**STATE OF LOUISIANA.**

---

**PETITION FOR WRIT OF CERTIORARI.**

---

*To the Supreme Court of the United States:*

Your petitioner, Hugh Pierre, respectfully alleges:

A.

**Summary Statement of the Matter Involved.**

Petitioner, a member of the colored race, is now confined in the Parish Prison in the City of New Orleans, State of Louisiana, under sentence of death for the alleged crime of murder. He was convicted at a trial held in St. John the Baptist Parish, Louisiana, before the Honorable Robert L. Rivard and a jury. An appeal was taken from that conviction and sentence to the Supreme Court of Louisiana, which is the highest Court of the State of Louisiana. The conviction and sentence was affirmed by that Court on Monday, March 7, 1938. A timely application for a rehearing was

made on March 18, 1938, which application was received and considered by the Court. The application for a rehearing was denied on April 4, 1938.

Before trial petitioner duly filed a motion to quash the indictment against him on the ground and for the reason that the Grand Jury which returned the indictment in St. John the Baptist Parish had been drawn from jury rolls and had been selected in such a manner, in that negroes had been excluded therefrom and discriminated against, because of their race and color. Petitioner also moved to quash the general venire and panel from which the grand jury, which returned the indictment against him, and from which the petit jury panel was drawn, on the ground and reason that negroes had been illegally and unlawfully excluded from the venire and grand jury and petit jury panels on account of their race and color, in violation of defendant's constitutional rights guaranteed him under the Constitution of the State of Louisiana and of the 14th Amendment of the Constitution of the United States. The motion to quash was entertained, and the evidence introduced in support thereof established such discrimination; the Court, after hearing the evidence in support thereof, quashed the petit jury panel and venire, but refused to quash the indictment and grand jury venire and panel, although the petit jury panel and venire was a part of the grand jury general venire.

## B.

### **Reasons Relied on for the Allowance of the Writ.**

1. Petitioner was denied the equal protection of the laws guaranteed him by the 14th Amendment of the Constitution of the United States, in that negroes were excluded from the venire and panel and from jury service in St. John the Baptist Parish, Louisiana, in which parish was found the indictment against him, and that such exclusion was by reason of their race and color.

2. A motion to quash was made by your petitioner before trial to quash the indictment on these grounds. The motion was heard, and the evidence introduced in support thereof established such discrimination, the trial judge quashing half of the venire which made up the petit jury panel, holding that defendant was discriminated against, and that negroes were excluded from the general venire on account of their race and color, but refusing to quash the indictment and that part of the general venire which composed the grand jury, which returned the indictment against petitioner, for the reason as given by the Court that an indictment was simply a formal method of charging a person and, therefore, did no harm to the defendant. The claim of Federal right was considered both by the trial court and by the Supreme Court of the State.

3. Your petitioner was on numerous occasions, both with reference to the motion to quash the indictment, and with reference to motions to quash the venire, and in the refusing to maintain the motion in arrest of judgment, illegally discriminated against, illegally indicted by an illegally constituted grand jury and was denied the equal protection of the laws, as guaranteed him under the 14th Amendment of the Constitution of the United States, both by the trial court's judgment, and the Supreme Court of Louisiana's judgment in refusing to follow the decision of this Court, as laid out in the case of *Norris v. State of Alabama*, 294 U. S. 587, L. Ed. 1074, 55 S. Ct. 579.

In support of the foregoing grounds of application, your petitioner submits the accompanying brief setting forth in detail the precise facts and arguments applicable thereto.

WHEREFORE your petitioner prays that this Court, pursuant to United States Judicial Code, Section 237 B, as amended by Act of February 13, 1925, 43 Statutes 937, and

also Act of March 8, 1934, issue a writ of certiorari to review the judgment of the Supreme Court of Louisiana for the conviction for murder as aforesaid. All of which is herewith respectfully submitted this 15th day of June, 1938.

MAURICE R. WOULFE,  
*Attorney for Petitioner.*

UNITED STATES OF AMERICA,  
*State of Louisiana,*  
*Parish of Orleans:*

Personally came and appeared, before me, the undersigned authority, Hugh Pierre, who being duly sworn, deposes and says: That he is the petitioner named in the above and foregoing petition for writ of certiorari; that he has read same; and that all the facts and allegations herein contained are true and correct.

HUGH PIERRE,  
*Petitioner.*

Sworn to and subscribed before me this 15th day of June, 1938.

THEODORE H. MCGIEHAN,  
*Notary Public.*

[SEAL.]

**SUPREME COURT OF THE UNITED STATES**

**OCTOBER TERM, 1938**

---

**No. 142**

---

**HUGH PIERRE,**

*vs.*

*Petitioner,*

**STATE OF LOUISIANA.**

---

**BRIEF IN SUPPORT OF PETITION FOR WRIT OF  
CERTIORARI.**

---

**Statement of the Case.**

Petitioner and defendant, Hugh Pierre, was charged in bill of indictment for murder. Was tried and convicted before the Hon. Robert L. Rivarde, Judge of the 24th Judicial District Court, Parish of St. John the Baptist, Louisiana, and was sentenced to be "hanged by the neck until dead". From this conviction and sentence he appealed to the Supreme Court of Louisiana, which Court affirmed the verdict and sentence of the trial court, and from which final judgment and decree of the Supreme Court of Louisiana, petitioner now seeks relief through the writ of certiorari to this Honorable Court. Petitioner is a negro and was charged with murdering one Ignace Roussel, a white man. The indictment was returned into court on January 18, 1937. Before trial, he filed a motion to quash the indict-



ment and the general venire and grand jury panel and petit jury panel, on the ground and for the reason that negroes and persons of color were deliberately and systematically excluded therefrom, on account of their race and color in violation of the 14th Amendment of the Constitution of the United States (R. 2-3).

After hearing evidence upon said motion to quash, the Court handed down its judgment on January 27, 1937, maintaining in part the motion to quash filed on behalf of petitioner and defendant, ordering the petit jury venire and panel (which was part of the general venire) quashed and set aside, assigning his reasons for so doing, that the evidence showed discrimination against negroes, in violation of the 14th Amendment of the Constitution of the United States, but refused to quash the indictment and the grand jury venire and panel, which returned said indictment, and which formed part of the venire (which the Court ordered quashed and set aside) giving as his reasons for his refusal to quash the indictment and grand jury venire, that an indictment was simply a formal method of charging a person, and, therefore, no injury could be assigned by one, account of an illegal indictment (R. 4-5).

A bill of exception was properly reserved to the refusal of the trial court to grant the motion to quash the indictment and the grand jury venire. A motion for change of venue was filed and overruled, as petitioner was unable to offer sufficient evidence upon said motion for change of venue, although the public feeling was such against him that he was unable to receive a fair trial in said parish, or to secure a fair and impartial jury therein, and it was necessary for the authorities to confine him from the day of his arrest in custody of the criminal sheriff for the Parish of Orleans at the Parish Prison in New Orleans, for safekeeping. He was tried on July 19, 1937, and convicted on July 20, 1937. On July 29, 1937, he filed his motion for new trial

(Certified transcript p. 25) which was overruled, and exception reserved. A motion in arrest of judgment was filed and overruled; then petitioner filed his appeal to the Supreme Court of Louisiana. On Monday, March 7, 1938, having passed upon the Federal question and Federal right raised on behalf of petitioner, the Supreme Court affirmed the judgment to the lower court, the Chief Justice of the Supreme Court of Louisiana dissenting and handing down a separate dissenting opinion (R. 67-75, inclusive). A petition for rehearing was duly filed and considered (R. 75-80, inclusive). The Court refused the petition for rehearing filed on behalf of petitioner and defendant on April 4, 1938. He immediately on that day applied to the Chief Justice of the Supreme Court of Louisiana for a stay of execution and delay to apply for writs of certiorari, review, or Appeal to the Supreme Court of the United States (R. 80-82, inclusive).

The facts of this case, as disclosed by this record attached to the motion for new trial, are these: Hugh Pierce, a crippled negro, residing with his mother and family at Lucy, Louisiana, in the Parish of St. John the Baptist, Louisiana, was engaged in working on a truck in the rear yard of his farm on the afternoon of the 20th day of October, 1936, when a white man by the name of Leopold Ory came into Pierre's yard and accused him of stealing a plow six years before that, which he claimed to have been left behind the levee of the Mississippi River. Upon Pierre's denial of the accusation, Ory struck him and knocked him down, and during the argument, defendant struck Ory with a piece of stick he had in his hand, after which Ory, on leaving the yard, threatened Pierre that he would return later on and get him. Later on that night two of Ory's sons, Michael Ory and Alfred Ory, together with another and the deceased, Ignace Roussel, who was a constable, returned to Pierre's home. The deceased, according to the testimony,

drawing a gun, threatened and struck petitioner with a night stick, while his companions surrounded the house, telling petitioner that he was going "to take him with him". Upon being asked if he had a warrant for his arrest, deceased refused to show same, stating he did not need any warrant to arrest the accused; or words to that effect (Certified transcript p. 194). Petitioner, fearing for his life, and that great bodily harm was to come to him, tried to escape out the back way and found that his escape was blocked by the companions of the deceased, and fearing for his life when the deceased broke open the front door with his gun in hand, petitioner fired one shot in the direction of the front door, killing the deceased. After the shot, he escaped into St. Charles Parish, where he was arrested by parish officers, and immediately conveyed by them for safekeeping to the parish prison in the City of New Orleans, where he is still being held, pending this appeal. We believe that the entire evidence and circumstances of this case are that the arrest, if arrest it can be called, was unlawful, and that petitioner and defendant simply defended his life and took the life of the deceased in self-defense; that this country jury in less than five minutes returned a verdict of "Guilty, as Charged" (Motion for New Trial, certified transcript p. 25). We respectfully submit that had this been the case of a white man killing another white man under like circumstances as brought out in this case, this defendant would have been promptly acquitted, or probably never prosecuted. The evidence showed that Pierre and his family were respected, law-abiding and industrious negroes who had resided all their lives in the Parish of St. John the Baptist, Louisiana, who worked for themselves and bore the respect of all in the community; that the defendant himself was a hopeless cripple in arm and leg, and an inoffensive negro who had never been in any trouble before in his life. The evidence offered on the motion to quash is contained in (R. 22-56, inclusive),

together with the list of jurors on the venire which returned the indictment herein.

### **Specification of Errors.**

(1) That the trial court erred in refusing the motion to quash the indictment and grand jury panel, from which the grand jury that found the indictment was drawn, as such ruling and judgment, that although negroes were excluded from the list of jurors drawn, on account of their race and color; an indictment was a mere presentment and formal method of charging an accused, and no injury could be sustained by the return of an illegal indictment, such as in this case, was in direct conflict with the ruling of this Court in the case of *Carter v. Texas*, 177 U. S. 442, 447, 44 L. Ed. 839, 841, and the case of *Norris v. Alabama*, 294 U. S. 587, 79 L. Ed. 1074.

(2) That the Supreme Court of Louisiana in affirming the judgment of the trial court, erred in its judgment in requiring petitioner to a rule and degree of proof, of discrimination and exclusion, contrary to that held in the decision of this Honorable Court handed down in the case of *Norris v. Alabama*, 294 U. S. 587. The degree of proof necessary under the ruling of this Honorable Court in the above case was that it was incumbent upon petitioner to make a *prima facie* showing of discrimination and exclusion, and not by a preponderance of the evidence, as stated in the Supreme Court of Louisiana's decision. Further, the finding of fact by the Supreme Court of Louisiana was clearly erroneous and not sustained in fact by the proof offered on the motion to quash.

(3) That both the rulings of the trial court and the Supreme Court of Louisiana in sustaining the indictment and grand jury venire, were a direct denial of petitioner's rights of the equal protection of the laws, as guaranteed him under

the 14th Amendment of the Constitution of the United States.

### **Argument.**

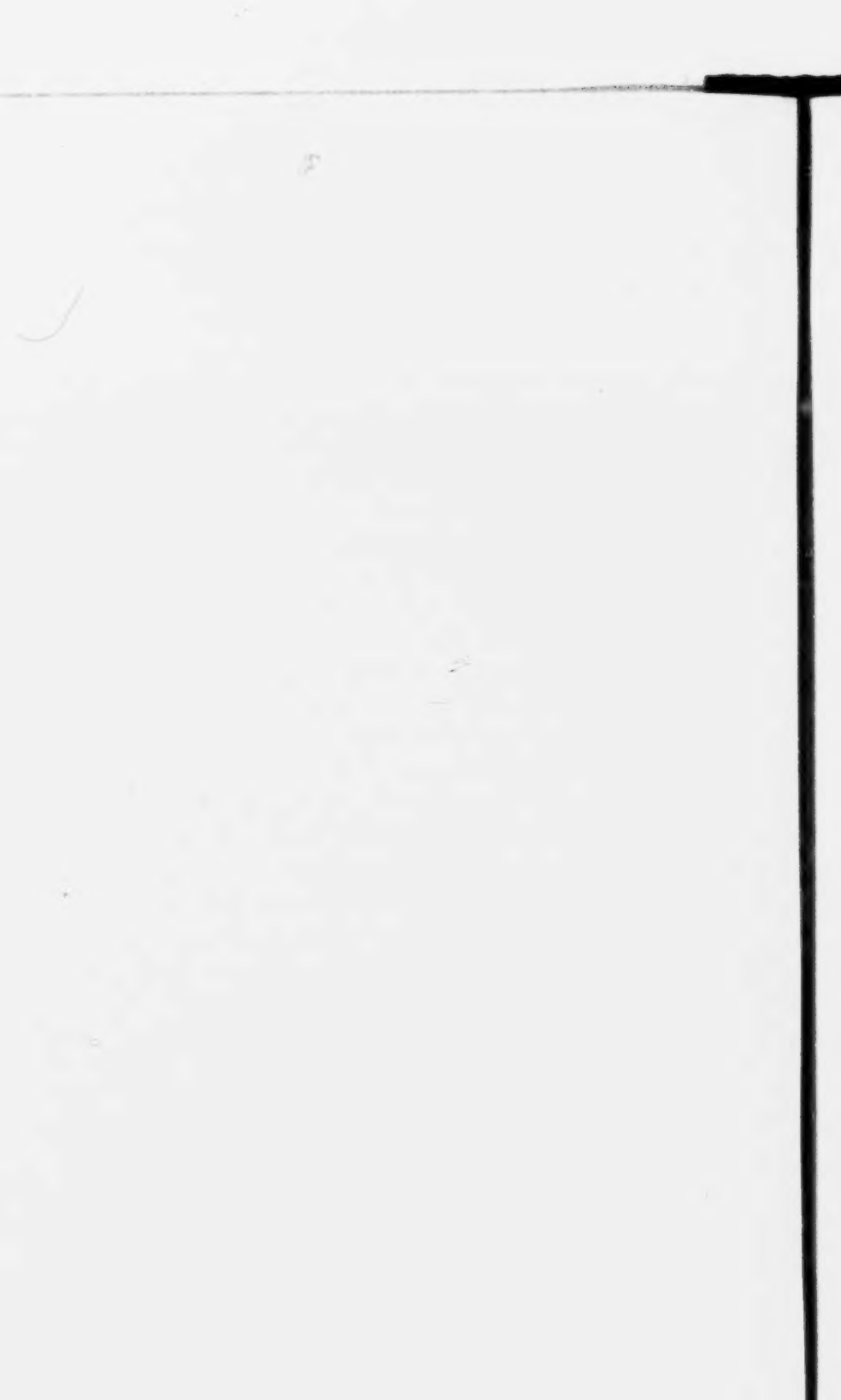
The trial court, after hearing the evidence on the motion to quash (R. 22-56, inclusive), together with judicial knowledge of the listed persons on the venire of the jury that returned the indictment against petitioner, and its judicial knowledge of the fact that at no time during its incumbency upon the bench had a negro, a person of color, ever been selected for jury service in St. John the Baptist Parish; in addition to that, the Court's knowledge of the tremendous handicap that petitioner labored under to draw out from the witnesses the proof and evidence of exclusion and discrimination, and the Court's actual determination of that question of fact, that there was discrimination, and that negroes were excluded on account of their race and color, we respectfully submit was conclusive on the Supreme Court of Louisiana. The trial court was in error in deciding that an indictment was a mere presentment, and not evidence of guilt, and that no harm could be assigned, or constitutional right violated by the return and finding of an illegal indictment. This ruling of the trial court was in direct conflict with the decisions of this Court, in the cases of *Carter v. Texas*, 177 U. S. 442, 447, 44 L. Ed. 839, 841, and *Norris v. Alabama*, 294 U. S. 587, 79 L. Ed. 1074, and *Hale v. Kentucky*, 303 U. S. 613, Supreme Court Advanced Opinions, Vol. 82 #14, Pg. 744. The Supreme Court of Louisiana's decision was erroneous, although admitting the constitutional rights involved, and although acknowledging the decision of this Honorable Court in the case of *Norris v. Alabama*, above referred to, the grounds upon which the Supreme Court of Louisiana ruled on, and were the same grounds upon which the Supreme Court of Alabama denied the constitutional rights of the defendant and was merely

an indirect method and way to circumvent the decisions of this Honorable Court, in the case of *Norris v. Alabama*, 294 U. S. 587, 79 L. Ed. 1074, and the case of *Carter v. Texas*, 177 U. S. 442 (see decision of this matter in *State v. Pierre*, Vol. 180, So. Rep. No. 4, May 26, 1938, Pg. 630).

In the petition for rehearing before the Supreme Court of Louisiana (R. 75-80, inclusive) we clearly briefed the decisions of the Supreme Court of Louisiana on the question of a negro's right of representation on juries down to the last case decided by that court, and it is a significant fact that the Supreme Court of Louisiana has without exception avoided and nullified this Honorable Court's decisions on this question herein involved, in every case coming before it. We respectfully submit that a strong *prima facie* case of discrimination and exclusion of negroes from juries in St. John the Baptist Parish, Louisiana, was met by the proof and evidence offered in conformity to the ruling of this Honorable Court, in the case of *Norris v. Alabama*, 294 U. S. 587, 79 L. Ed. 1074, and that the rulings of both the trial court and the Supreme Court of Louisiana are erroneous and in direct conflict with this Court's rulings in the above cases cited, and should be set aside, and that the writ of certiorari should issue herein, as prayed for, and according to law, and for all other relief as may be necessary.

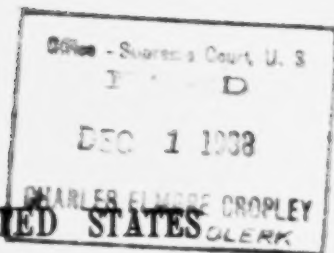
Respectfully submitted,

MAURICE R. WOULFE,  
*Attorney for Petitioner.*





FILE COPY



SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1938

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No. 142

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HUGH PIERRE,

*Petitioner,*

vs.

THE STATE OF LOUISIANA.

---

BRIEF ON BEHALF OF THE STATE OF LOUISIANA

---

GASTON L. PORTERIE,  
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---

**BRIEF ON BEHALF OF THE STATE OF LOUISIANA**

---

MAY IT PLEASE THE COURT:

**Statement of the Case.**

The facts as we glean them from the record made up in the court below are that one Leopold Ory made an affidavit against Hugh Pierre, the petitioner, on October 20, 1936, before the Justice of the Peace of the First Ward of the Parish of St. John the Baptist, for assault with a dangerous weapon, with intent to kill.

Ignace Roussel was the duly elected and qualified constable of that ward and he was given the warrant and commitment for Pierre. Roussel was an officer of the law, disinterested in the controversy between Ory and Pierre.

Upon receipt of the warrant and commitment, Roussel went to the home of Pierre, the petitioner. The house was closed and he called the petitioner by name. Pierre's mother came out and Roussel informed her he had come to get Pierre to put him in jail because a charge had been made against him, and she replied: "No, you are not taking Hugh to jail tonight." They exchanged a few words, and suddenly the door opened, and Hugh Pierre, the petitioner, stepped out and fired two shots from a shotgun, killing Roussel instantly.

Roussel had no chance to say anything to Pierre, and Pierre then escaped through the rear of the house, fled to the adjoining Parish of St. Charles, where he was subsequently captured several days later and charged with the murder of Roussel.

The preponderance of the evidence does not bear out the statement contained in the brief of the petitioner that Roussel drew a gun and threatened and struck Pierre with a night-stick while his companions surrounded the house, or that he refused to show the warrant for Pierre's arrest, nor does it substantiate the statement that Pierre found his escape blocked, and fearing for his life, when Roussel broke open the front door with his gun in hand, he fired, killing Roussel. But the evidence in the court below showed that Roussel at no time spoke to Pierre, had never exchanged a word, and without any warning at all, was shot down and killed with two blasts from a double-barreled shotgun whilst he was in the act of talking to Pierre's mother.

### **The Motion to Quash.**

Hugh Pierre was indicted by the Grand Jury of the Parish of St. John the Baptist for the crime of murder, on January 18, 1937 (R. 1).

Before trial, he filed a motion to quash the indictment as well as the entire grand and petit jury venires on the

ground that he is a member of the negro race, and that the general venire box

“did not contain the names of any negro at the time the panel for the Grand Jury was drawn, which returned the Indictment herein against mover; that the officers of the law in charge of said matter not only failed to place in said venire box the names of any negroes qualified to serve as Grand or Petit Jurors, but deliberately excluded therefrom the names of any negroes qualified to serve as Grand or Petit Jurors, which action on the part of said officers is a denial of due process of law, and is a violation of mover’s constitutional rights as granted him by law by the Constitution of the State of Louisiana of 1921, and specially the 14th Amendment of the Constitution of the United States of America.”

He further averred,

“that there has not been a negro on the Grand Jury or Petit Jury of said Parish for at least twenty years; that the officers of said Parish have *systematically*, unlawfully and unconstitutionally excluded negroes from the Grand or Petit Jury in said Parish during this period of time; that this exclusion of negroes as Jurors in this Parish is done sole- and only because of their race and color and results in a denial to mover of due process of law and the equal protection of the law guaranteed him under the Constitution of the State of Louisiana of 1921, and the Constitution of the United States of America” (R. 2-3).

After hearing evidence, the Judge of the trial court refused to quash the indictment and the grand jury venire, holding, among other things, that in its opinion:

“• • • the Constitutional rights of the defendant is not affected by reason of the fact that persons of the colored or African race are not placed on the Grand Jury • • • the mere presentment of an indictment



is not evidence of guilt. In other words, it simply informs the court of the commission of a crime and brings the accused before the court for prosecution" (R. 4).

However, the trial judge did grant the motion to quash the petit jury venire, being of the opinion that the Jury Commissioners failed to place a sufficient number of names of colored persons in the jury box from which the jury was drawn, in proportion to the colored population of the parish (R. 4-5).

### **Motion for a Change of Venue.**

Petitioner also filed a motion for a change of venue, which was overruled without the presentation of any evidence in his behalf, and while he states in his brief that he

"was unable to offer sufficient evidence upon said motion for change of venue, although the public feeling was such against him that he was unable to receive a fair trial in said parish, or to secure a fair and impartial jury therein, and it was necessary for the authorities to confine him, from the day of his arrest, in custody of the Criminal Sheriff for the Parish of Orleans, at the parish prison in New Orleans for safekeeping" (His Brief, p. 6).

as a matter of fact, there is nothing in the original or printed record, nor was there any evidence adduced in the trial court below, to substantiate this contention, and the reason for his incarceration in the Parish Prison at New Orleans was not for safekeeping, but because of the fact that the local jail in the Parish of St. John the Baptist, had been condemned by the State Health authorities as unfit for further use as a parish prison.

He offered no evidence whatever on the trial of the motion for a change of venue, and he produced no witnesses to show that feeling was running high against him, or that

he was unable to receive a fair trial or to secure a fair and impartial jury.

The motion for a change of venue was taken up and the judgment of the lower court was to the effect that no evidence was offered by the accused or his counsel; that counsel for the accused informed the court he did not desire to press the motion, and submitted the same to the court without any evidence whatsoever, after which the motion for a change of venue was denied, and no bill of exception was reserved to the ruling of the court.

### **Evidence on Motion to Quash.**

In support of the allegations of his motion to quash, the petitioner called to the stand twelve witnesses, both white and negro, including the Clerk of Court who is ex-officio Chairman of the Jury Commission, the Sheriff, the Superintendent of Education, a member of the bar, the editor of a local newspaper, a former clerk of the District Court, two white citizens, and four negro citizens. It is significant at this time to call this Court's attention to the fact that he did not call as witnesses the five Jury Commissioners, entrusted with the duty and responsibility of getting up the list of three hundred names of citizens, possessing the necessary qualifications to serve as jurors, from which the Grand and Petit jury venires are selected and drawn.

Their testimony is, in substance, as follows:

H. R. MARTIN (R. 23), Clerk of Court, and by law ex-officio jury commissioner, testified that the names on the general venire list were placed in the box by the jury commissioners in his presence; is under impression that there are two, three or possibly four names of negroes on the general venire list, but he would have to go over it with someone who is more familiar with the names than he is, to be positive; does not know every man from each individual

ward. He is familiar with names on grand jury panel, that returned indictment, and they are all white. The petit jury panel that was drawn on December 29th (1936), contains the name of one negro whom he knows of, Ernest Martin, a resident of the Fifth Ward (R. 10, No. 30 for week of January 25, 1937). Witness has no idea of population of Parish, or what percentage of negroes.

WILLIAM DUHE, sheriff since 1928 (R. 27), not familiar with all names on general venire list, but most of them; was handed the general venire list (R. 56) and picked out the name of No. 33, F. N. Dinvaut, from the First Ward, and No. 174, Arthur Voisin, from the Fifth Ward. Those are the only ones he sees now. The present grand jury panel does not contain the name of a negro; he does not know the population of the Parish of St. John the Baptist, and cannot approximate the percentage of whites.

J. O. MONTEGUT, Superintendent of Schools (R. 30), thinks entire population of parish is about 14,000, of which 3,000 are negroes—males and females; can't approximate the number of males, but would guess one-half of the 3,000 to be males, and out of this number, about 25 or 50, over twenty-one years of age, would be eligible for jury service—all of which is merely a guess on his part.

LUCIEN TROXLER, a member of the bar (R. 34), can't estimate the population of the parish, and doesn't know what proportion there is of white and negroes.

O. J. BECNEL, a citizen sixty years of age (R. 35), doesn't know population of parish, nor the population of whites and blacks in the parish.

F. N. DINVUAT, a colored man (R. 35), has no idea how many colored people he knows in parish, but it seems that

population is half white and half black—is not positive—“that is just my mind.” He has not the least idea how many negroes above the age of 21 can read and write, and are residents of the parish—it would be more than ten—he thinks so—he believes there are more than three hundred and fifty.

On cross-examination, he testified that he is just guessing all around. He can read and write. He thinks he knows H. P. Williams at Garyville, a colored man, an undertaker; he also thinks he knows George Courou; knows Albert Washington, Augustus Reed, all colored over 21 years of age; knows Washington and Reed can read and write, but don't know about the rest; he knows ten or twelve negroes around his store, above the age of 21, who can read and write their name, but can't say how qualified they are.

CHARLES DERONCELET, a colored man, 67 years of age (R. 40), can read and write a little; knows a few negroes above 21 years of age, who can read and write—about 12 or 15—but he is simply guessing; he doesn't know the population of St. John Parish, nor the percentage of colored people to white people, but believes it is less than half; he couldn't be exactly sure “I am simply guessing at these questions.” He served on jury in his young days, before 1896, but not since. He can't name any of those who can read and write.

T. J. NAGEL, a citizen 59 years of age (R. 43), can't tell the negro population of the Parish, would not approximate the number of negroes in parish above 21 years, who can read and write.

CLARENCE SORAPARU, 31 years, a colored man (R. 44). He can read and write, has never been called to serve on a jury; knows a few colored men above twenty-one who can read and write, approximately, maybe a hundred and fifty; could not say what is percentage of negroes in the parish;

then he says probably 20 per cent—he doesn't know about that—this is according to his opinion.

On cross-examination, he testified he knows probably a dozen who can read and write—he knows one in LaPlace, Professor Reed Augustus, but can't tell his age. He knows his three brothers and four sisters can read and write, his brothers are above twenty-one years of age. He knows F. N. Dinvaut and his son, Newton Dinvaut, can read and write; he named six negroes who could read and write.

A. L. BROU, formerly Clerk of Court, 46 years old (R. 47), testified population of St. John Parish about 12 or 15 thousand, only guesswork; could not say what percentage are negroes, but fixes it about 30 per cent, which includes men, women and children; about 2 per cent of the 30 per cent are qualified to serve as petit jurors. He doubts if it would go to 100, in numbers.

IGNACE HILLAIRE, colored man, 48 years (R. 49), can read and write a little bit, can read some portions of a newspaper; never been a juror in this parish. He knows about fifteen negroes above twenty-one years of age, who can read and write, in the parish. He named the following negroes as being able to read and write: Charley Hillaire, his brother, Romero Hillaire, also a brother, Artrey Simon, James Gautier, Sam Johnson, Rufert Dinvaut, a son of F. N. Dinvaut, and John Ory. He is unable to state how old these people are, but they are all over twenty-one years of age.

JOHN D. REYNAUD, age 50, editor of local newspaper (R. 54), had two negro subscribers to his paper in the parish. Was a United States census enumerator, and that the population of the parish, about thirteen or fourteen thousand, about three thousand negroes; about twelve hundred negro males above the age of twenty-one years—very few of these

can read and write—he wouldn't put it at more than about seventy-five, but intelligently, he would put it at fifty.

H. R. MARTIN, clerk of court, recalled (R. 55), testified the jury commissioners, in selecting the three hundred names for the general venire, would take them "off-hand". The jury commissioners handed in the names, but he don't know where they got the names from—he was present.

### **Argument and the Law.**

Petitioner relies upon the decision of this Court rendered in the case of *Norris v. State of Alabama*, 294 U. S. 587, 55 Sup. Ct. Rep. 579, 79 L. Ed. 1074, re-affirming its ruling in the earlier cases of *Carter v. Texas*, 177 U. S. 442, 20 Sup. Ct. Rep. 687, 44 L. Ed. 839, and *Martin v. Texas*, 200 U. S. 316, 26 Supt. Ct. Rep. 338, 50 L. Ed. 497, where it was said:

"Whenever by any action of a State, whether through its legislature, through its courts, or through its executive or administrative officers, all persons of the African race are excluded, solely because of their race or color, from serving as grand jurors in the criminal prosecution of a person of the African race, the equal protection of the laws is denied to him, contrary to the Fourteenth Amendment of the Constitution of the United States."

In the *Norris* case, the court said:

"And although the state statute defining the qualifications of jurors may be fair on its face, the constitutional provision affords protection against action of the state through its administrative officers in effecting the prohibited discrimination."

There is no controversy in this case as to the constitutional principle involved, and the Supreme Court of the

State of Louisiana has always recognized that principle, as shown by the following cases :

- State v. Casey*, 44 La. Ann. 969, 11 So. 583 ;
- State v. Joseph*, 45 La. Ann. 903, 12 So. 934 ;
- State v. Murray*, 47 La. Ann. 1424, 17 So. 832 ;
- State v. Baptiste*, 105 La. 661, 30 So. 147 ;
- State v. West*, 116 La. 626, 40 So. 920 ;
- State v. Lawrence*, 124 La. 378, 50 So. 406 ;
- State v. Turner*, 133 La. 555, 63 So. 169 ;
- State v. Gill*, 186 La. 339, 172 So. 412.

As a matter of fact, Act 135 of 1898, p. 216 of the Act of the Louisiana Legislature, provides that in the drawing of grand and petit jurors to serve in civil and criminal cases "there shall be no distinction made on account of race, color or previous condition."

Since the petitioner has based his motion to quash the indictment on the ground that the general venire box did not contain the name of any negro at the time the panel for the grand jury was drawn which returned the indictment against him, and that the officers in charge of drawing the jury deliberately excluded the names of negroes qualified to serve as grand or petit jurors, the burden of proof was upon him to prove the facts alleged.

We unhesitatingly state that if members of the negro or African race possessing the necessary qualifications to serve as jurors have been systematically and deliberately excluded from such service, solely because of their race and color, both the indictment and the grand jury panel should have been quashed.

"The burden of proof is upon him alleging the existence of a fact."

Article 439, Criminal Code of Procedure of Louisiana.  
It is a well-established principle of law in the State of



Louisiana that a motion to quash the indictment and the jury venire on the ground of discrimination, in order to avail the defendant, it must be established that all the names in the general venire box were of white people and that negroes were discriminated against on account of race or color.

*State v. Joseph*, 45 La. Ann. 903, 12 So. 934;

*State v. Murray*, 47 La. Ann. 1424, 17 So. 832;

*Murray v. Louisiana*, 163 U. S. 101-108, 41 L. Ed. 87-90;

*State v. West*, 116 La. 626, 40 So. 920.

“Courts are to presume that the members of the Jury Commission, *in the absence of testimony to the contrary*, perform the duties imposed upon them by law, and *he who asserts that the jury is not legally composed, assumes the burden of proof.*”

*State v. Gonsoulin*, 38 La. Ann. 459;

*State v. Johnson*, 47 La. Ann. 1092;

*State v. Shaw*, 47 La. Ann. 1094.

And this Court, in passing upon a similar question, in the case of *Franklin v. South Carolina*, 218 U. S. 161, 54 L. Ed. 981-985, said:

“In this class of cases, when the real objection is that a grand jury is so made up as to exclude persons of the race of the accused from serving in that capacity, *it is essential to aver and prove such facts as establish the contention.*”

Citing: *Martin v. Texas*, 260 U. S. 316, 50 L. Ed. 497.

See also:

*Carter v. Texas*, 177 U. S. 442, 44 L. Ed. 839;

*Rogers v. Alabama*, 192 U. S. 226, 48 L. Ed. 417;

*Re Shibuya Jugiro*, 140 U. S. 297-298, 35 L. Ed. 513.

The degree of proof required in this case, of the petitioner, was no different than that required in the decided

cases above referred to, and the petitioner absolutely failed to even make a *prima facie* showing of discrimination and exclusion of negroes from jury service, by reason of their color and race, and the finding of fact by the Supreme Court of Louisiana was correct and is fully sustained by the proof offered on the motion to quash.

The evidence shows, and the Supreme Court of Louisiana found as a matter of fact, that :

“Not only did he fail to prove that there was discrimination against colored citizens of the parish because of their race or color at the time the grand jury which returned the indictment and the petit jury for that term of court were drawn, but he failed to prove that, as a matter of fact, the names of colored people were not included among the 300 names in the jury box. In fact, the testimony shows that, at the time the grand and petit juries were drawn, the names of at least four colored people were included in the list of 300 from which the grand jury was selected and the petit jury for that term of court was drawn. Mr. Martin, the clerk of court, said, on examining the general venire list, that there were two, three or four names of colored people included, and the sheriff of the parish testified that he recognized the names of two or three negroes on the list and that there might be more. Both the clerk of court and the sheriff testified that they were not personally acquainted with all of the male citizens of the parish and especially the colored citizens, and that, with more time to check the list, they might find more names than those already pointed out. Mr. Martin, the clerk of court, testified that the name of at least one negro was drawn to serve on the petit jury drawn at the same time that the grand jury sought to be quashed was selected. He and the sheriff both said they did not remember whether negroes had served on juries in that parish in former years or not. A colored man named Soraparu testified that he knew a few negroes who had served on juries in that parish. Another col-

ored man named Dinvaut testified that he himself had served on a jury in that parish in his 'young days', something like 30 years ago" (R. 70-71).

*State v. Hugh Pierre*, 189 La. 764, 180 So. 630.

Under the law of Louisiana, the qualifications for service as grand or petit jurors are the following:

"To be a citizen of this State, not less than twenty-one years of age, a bona fide resident of the parish in and for which the court is holden, for one year next preceding such service, able to read and write the English language, not under interdiction or charged with any offense, or convicted at any time of any felony, provided that there shall be no distinction made on account of race, color or previous condition of servitude; and provided further, that the District Judge shall have discretion to decide upon the competency of jurors in particular cases where from physical infirmity or from relationship, or other causes, the person may be, in the opinion of the judge, incompetent to sit upon the trial of any particular case.

"In addition to the foregoing qualifications, jurors shall be persons of well-known good character and standing in the community."

Article 172, Code of Criminal Procedure of Louisiana.

Furthermore, there is no set standard or rule which fixes the number of whites and blacks that must be on the general venire list, from which grand and petit jury venires are drawn, and as long as there is no deliberate or systematic exclusion of negroes from jury service, a negro charged with a crime, triable by a jury, cannot complain, and there is no denial of his constitutional rights, as long as a fair proportion of negroes, as compared to whites, are on the venire list from which the grand and petit juries are to be drawn, and the Supreme Court of Louisiana so held.

The Supreme Court of the State of Louisiana, having found as a fact, that there were four and possibly more

names of colored citizens on the jury roll of three hundred, from which the grand and petit juries were drawn, in discussing whether the number of names of negroes in the box was out of proportion to the number of whites, reached the following conclusion:

“If there are no more than 75 or 100 colored males between the ages of 21 and 65 in the parish who can read and write—and when we consider that some of these may have been disqualified from jury service on one or more of the grounds stipulated in the act of the legislature—the names of four negroes out of 300 names on the jury roll does not seem disproportionate to the number of whites, and does not, we think, indicate that there was discrimination against the colored race” (R. 67-74, at p. 72).

*State v. Pierre*, 189 La. 764, 180 So. 630.

In the *Scottsboro* case (*Norris v. Alabama*, 294 U. S. 598, 79 L. Ed. 1074), the evidence showed that for a generation or longer, no negro had been called for service on any jury in Jackson County, and that no names of negroes were placed on the jury roll, and for that reason, this Court held that there was a denial of the constitutional rights of the accused, and that the indictment should have been quashed upon that ground.

But no such situation exists with respect to the case at bar, because the evidence does show that there were names of negroes on the general venire list, and that as a matter of fact, negroes were actually drawn for jury service on the petit jury panel; and there has not been proven in this case, any deliberate or systematic exclusion of negroes from jury service in the Parish of St. John the Baptist, and for this reason, the ruling in the *Scottsboro* case does not apply to the case at bar.

The evidence in this case further shows that the petitioner failed to prove that there was discrimination against col-

ored citizens of the parish because of their race or color at the time the grand jury which returned the indictment and the petit juries for that term were drawn, and he failed to prove, as a matter of fact that the names of colored people were not included among the 300 names in the jury box.

We call the court's attention to the fact that the petitioner was actually tried by a jury of twelve, obtained from a regular petit jury panel of thirty names, of which twenty-eight responded for service, and a tales jury panel of fifty names, of which thirty-two responded—a total of sixty names among both panels. There were four negroes called for service—the first negro juror stated that he did not think he would understand the proceedings sufficiently well to pass intelligently upon the issues involved. The second negro was challenged by the State, and the two others who were called each were excused for cause, because both were opposed to capital punishment.

This is substantiated by the *per curiam* attached to the Bill of Exception No. 1, reserved to the refusal of the Court to quash the indictment and the grand jury venire (R. 6).

In the *Norris* case, in connection with the motion to quash the *trial* venire, the evidence showed that in Morgan County, no negro had ever served on a jury in that county, or been called for jury service, within the memory of witnesses who were long resident there. There was an abundance of evidence to show that there were a large number of negroes in that county who were qualified for jury service.

The Sheriff of the county, called as a witness in that case, scanned the jury roll, and after looking over every single name from "A" to "Z", was unable to point out any single negro at all. This Court found that there was no justification for this long-continued, unvarying and wholesale exclusion of negroes from jury service, inconsistent with the constitutional mandate, and accordingly, the judgment of conviction was reversed and the cause remanded for further

proceedings. But in the case at bar, no such condition exists.

The petitioner in his brief refers to the dissenting opinion of the Chief Justice of the Supreme Court of Louisiana, and lays considerable emphasis on the judgment of the trial court on the motion to quash. The trial judge maintained the motion in part and denied the motion in part. He quashed the petit jury venire, but refused to quash the indictment or the grand jury venire.

The Chief Justice of the Supreme Court of Louisiana dissented from the majority opinion, in that the distinction which the trial judge drew between the petit jury panel and the grand jury panel was contrary to the ruling of this Court in *Carter v. Texas*, 177 U. S. 442, 20 Sup. Ct. Rep. 687, 44 L. Ed. 839, and the other decisions there cited, and noted the fact that the grand jury panel in this case was taken from the same general venire list and general venire box that the petit jury panel was taken from, and he reasoned that when the trial judge quashed the petit jury panel because of the invalidity in the selection of the names that were placed in the general venire box and on the general venire list, his ruling had the effect of annulling the grand jury panel which was drawn from the same list of names in the general venire box.

We agree with the Chief Justice, if the evidence substantiated this position, but our contention is that both the trial judge and the Chief Justice were in error. The judge of the trial court, in quashing the petit jury venire, did so when as a matter of fact and as the evidence showed, there were names of negroes in the jury box from which the grand jury and the petit jury panels were drawn, for the reason that he had before him the evidence of the Clerk of Court and ex-officio Chairman of the Jury Commission, to the effect that there were two, three or possibly four names of negroes on the general venire list, and the Sheriff, as a wit-

ness, in testifying for the petitioner, when handed the general venire list, picked out the names of F. N. Dinvaut and Arthur Voisin, and it was from the list containing the names of Dinvaut, Voisin, and Martin that the grand jury was selected and the petit jury panels drawn for the January 1937 criminal term of court. (See Nos. 33, 173 and 174, R. 58, 61.) .

It is clear from the testimony of both the Clerk and the Sheriff that when the Grand Jury, which indicted the petitioner, was selected, the jury box, with its three hundred names, contained the names of negro citizens qualified to serve on grand and petit juries, which certainly showed, if anything that there was clearly no discrimination or systematic exclusion of negroes from jury service in the Parish of St. John the Baptist, on account of their race or color, and when the judge of the trial court quashed the petit jury panel, he committed an error, although the error did not work to the prejudice of the petitioner, because he was not tried until July, 1937, by an entirely different petit jury; and as the record shows, his error was committed in quashing the petit jury panel, when there were actually negroes on the venire list, and the Chief Justice, in his dissenting opinion, committed the same error as did the trial judge.

Therefore, in the absence of any evidence to the contrary, we believe, in the face of the facts, that it can be correctly assumed that there were more names of negroes on the general venire list from which the grand and petit jury venires were drawn, than the three whose names have been mentioned.

### **Conclusion.**

It is, therefore, respectfully submitted that the record, and the evidence adduced on the trial of this case show that there was no discrimination and exclusion of negroes from service on the grand or petit juries in the Parish of St. John



the Baptist, solely because of their race or color, neither does it show that negroes were systematically and deliberately excluded from service, and that the decision of the Supreme Court of Louisiana is not in conflict with the ruling of this Court in the case of *Norris v. Alabama*, 294 U. S. 598, 79 L. Ed. 1074, re-affirming its ruling in the earlier cases of *Carter v. Texas*, 177 U. S. 442, 44 L. Ed. 839, and *Martin v. Texas*, 200 U. S. 316, 50 L. Ed. 497, for the reason that these cases are not applicable to the case at bar.

We also respectfully submit that the petitioner has failed to prove that there was discrimination against negro citizens of the Parish of St. John the Baptist because of their race or color at the time the grand jury which returned the indictment and the petit juries for that term of court were drawn; that the petitioner was not denied any of his constitutional or statutory rights in the trial of his case, or due process of law, under the constitution of the United States and of the State of Louisiana; that the writ of certiorari heretofore granted should be recalled and set aside; and the conviction and sentence of petitioner, and the judgment of the trial court and the Supreme Court of the State of Louisiana should be affirmed.

Respectfully Submitted:

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# SUPREME COURT OF THE UNITED STATES.

No. 142.—OCTOBER TERM, 1938.

Hugh Pierre, Petitioner,  
*vs.*  
 State of Louisiana.

} On Writ of Certiorari to  
 } the Supreme Court of  
 } the State of Louisiana.

[February 27, 1939.]

Mr. Justice BLACK delivered the opinion of the Court.

Indicted for murder, petitioner, a member of the negro race, was convicted and sentenced to death in a State court of the Parish of St. John the Baptist, Louisiana. The Louisiana Supreme Court affirmed.<sup>1</sup> His petition for certiorari to review the Louisiana Supreme Court's judgment rested upon the grave claim—earnestly, but unsuccessfully urged in both State courts—that because of his race he had not been accorded the equal protection of the laws guaranteed to all races in all the States by the Fourteenth Amendment to the Federal Constitution. For this reason, we granted certiorari.<sup>2</sup> The indictment against petitioner was returned January 18, 1937. He made timely motion to quash the indictment and the general venire from which had been drawn both the Grand Jury that returned the indictment and the Petit Jury for the week of his trial. His motion also prayed that the Grand Jury Panel and the Petit Jury Panel be quashed. This sworn motion alleged that petitioner was a negro and had been indicted for murder of a white man; that at least one-third of the population of the Parish from which the Grand and Petit Juries were drawn were members of the negro race, but the general venire had contained no names of negroes when the Grand Jury that indicted petitioner was drawn; that the state officers charged by law with the duty of providing names for the general venire had "deliberately excluded therefrom the names of any negroes qualified to serve as Grand or Petit Jurors, . . ." and had "systematically, unlawfully and unconstitutionally excluded negroes from the Grand or Petit Jury in said Parish" for at

<sup>1</sup> 189 La. 764.

<sup>2</sup>— U. S. —.

least twenty years "solely and only because of their race and color"; and that petitioner had thus been denied the equal protection of the laws guaranteed him by the Constitution of Louisiana and the Fourteenth Amendment to the Constitution of the United States.

No pleadings denying these allegations appear in the record, and the State offered no witnesses on the motion. Petitioner offered twelve witnesses who were questioned by his counsel, the State's Assistant District Attorney, and the court. On the basis of this evidence, the trial judge sustained the motion to quash the Petit Jury Panel and venire and subsequently ordered the box containing the general venire (from which both Grand and Petit Juries had been drawn) emptied, purged and refilled. This was done; a new Petit Jury Panel composed of both whites and negroes was subsequently drawn from the refilled Jury box and from this Panel a Petit Jury was selected which tried and convicted petitioner. Although the Grand Jury that indicted petitioner and the quashed Petit Jury Panel had been selected from the same original general venire<sup>3</sup> the trial judge overruled that part of petitioner's motion seeking to quash the Grand Jury Panel and the indictment.

*First.* The reason assigned by the trial judge for refusing to quash the Grand Jury Panel and indictment was that "the Constitutional rights of the defendant [are] . . . not affected by reason of the fact that persons of the Colored or African race are not placed on the Grand Jury, because . . . the mere presentment of an indictment is not evidence of guilt . . . it simply informs the Court of a commission of a crime and brings the accused before the court for prosecution." But the bill of rights of the Louisiana Constitution (Dart, 1932, Art. 1, § 9) provides that no person shall be held to answer for capital crime unless on a presentment or indictment by a grand jury. . . . And the State concedes

<sup>3</sup> Under Louisiana practice the District Judge orders the Jury Commission to select three hundred qualified jurors in a given Parish, who compose the general venire list, to be kept complete and supplemented from time to time. These names are placed in the "General Venire Box." From the general venire list, the Commission selects twenty persons qualified as grand jurors to serve six months, who compose the "List of Grand Jurors." The Judge selects a foreman from the "List of Grand Jurors" and the sheriff draws eleven more who, with the foreman, constitute the Grand Jury Panel. After selection of the "List of Grand Jurors" the Commission draws thirty names from the "General Venire Box" to serve as Petit Jurors, who are designated a "List of Jurors" and this "List of Jurors" is kept in the "Jury Box." Louisiana Code of Criminal Procedure (Dart, 1932) Title XVIII, c. 2.

re, as the Supreme Court of Louisiana pointed out in its opinion in this case, that " . . . it is specially provided in the [Louisiana] law prescribing the method of drawing grand and petit jurors to serve in both civil and criminal cases that 'there shall be no distinction made on account of race, color, or previous condition of servitude'" and "If . . . [qualified] members of the Negro . . . race . . . have been systematically excluded from . . . service in the Parish of St. John, . . . solely because of their race or color, the indictment should have been quashed . . . ." Exclusion from Grand or Petit Jury service on account of race is forbidden by the Fourteenth Amendment.<sup>4</sup> In addition to the safeguards of the Fourteenth Amendment, Congress has provided that "No citizen possessing all other qualifications . . . shall be disqualified for service as grand or petit juror in any court of the United States, or of any State on account of race, color or previous condition of servitude; . . . ." Petitioner does not contend that Louisiana laws required an unconstitutional exclusion of negroes from the Grand Jury which indicted him. His defence was offered to show that Louisiana—acting through its administrative officers—had deliberately and systematically excluded negroes from jury service because of race, in violation of the laws and Constitutions of Louisiana and the United States.<sup>6</sup> If petitioner's evidence of such systematic exclusion of negroes from the general venire was sufficient to support the trial court's action in quashing the Petit Jury drawn from that general venire, necessarily follows that the indictment returned by a Grand Jury, selected from the same general venire, should also have been quashed.

*Second.* But the State insists, and the Louisiana Supreme Court held (the Chief Justice dissenting), that this evidence failed to establish that members of the negro race were excluded from the Grand and Petit Jury venire on account of race, and that the trial court's finding of discrimination was erroneous. Our decision and judgment must therefore turn upon these disputed questions of fact. In our consideration of the facts the conclusions reached by the Supreme Court of Louisiana are entitled to great respect. Yet,

*Strander v. West Va.*, 100 U. S. 303, 308, 309; *Carter v. Texas*, 177 U. S. 447; *Martin v. Texas*, 200 U. S. 316, 319.

U. S. C. Title 8, § 44.

*Cf.*, *Norris v. Alabama*, 294 U. S. 587, 589; *Neal v. Delaware*, 103 U. S. 397; *Carter v. Texas*, *supra*, at 447; *Hale v. Ky.*, 303 U. S. 613, 616.

when a claim is properly asserted—as in this case—that a citizen whose life is at stake has been denied the equal protection of his country's laws on account of his race, it becomes our solemn duty to make independent inquiry and determination of the disputed facts<sup>7</sup>—for equal protection to all is the basic principle upon which justice under law rests. Indictment by Grand Jury and trial by jury cease to harmonize with our traditional concepts of justice at the very moment particular groups, classes or races—otherwise qualified to serve as jurors in a community—are excluded as such from jury service.<sup>8</sup> The Fourteenth Amendment intrusts those who because of race are denied equal protection of the laws in a State first “to the revisory power of the higher courts of the State, and ultimately to the review of this court.”<sup>9</sup>

Petitioner's witnesses on the motion were the Clerk of the court—ex-officio a member of the Jury Commission; the Sheriff of the Parish; the Superintendent of Schools who had served the Parish for eleven years; and other residents of the Parish, both white and colored. The testimony of petitioner's witnesses (the State offered no witnesses) showed that from 1896 to 1936 no negro had served on the Grand or Petit Juries in the Parish; that a venire of three hundred in December, 1936, contained the names of three negroes, one of whom was then dead, one of whom (D. N. Dinbault) was listed on the venire as F. N. Dinfant; the third—called for Petit Jury service in January, 1937—was the only negro who had ever been called for jury service within the memory of the Clerk of the court, the Sheriff, or any other witnesses who testified; and that there were many negro citizens of the Parish qualified under the laws of Louisiana to serve as Grand or Petit Jurors. According to the testimony, negroes constituted 25 to 50 per cent of a total Parish population of twelve to fifteen thousand. The report of the United States Department of Commerce, Bureau of the Census, for 1930, shows that the total Parish population was fourteen thousand and seventy-eight, 49.7 per cent native white, and 49.3 per cent negro. In a total negro population (ten years old and over) of five thousand two hundred and ninety, 29.9 per cent were classified by the census as illiterate.

The Louisiana Supreme Court found—contrary to the trial judge—that negroes had not been excluded from jury service on ac-

<sup>7</sup> *Norris v. Alabama*, 294 U. S. 567, 590.

<sup>8</sup> Cf. *Strader v. West Va.*, *supra*, 308, 309.

<sup>9</sup> *Virginia v. Rives*, 100 U. S. 313, 319.

ount of race, but that their exclusion was the result of a *bona fide* compliance by the Jury Commission with State laws prescribing jury qualifications. With this conclusion we cannot agree. Louisiana law requires the Commissioners to select names for the general venire from persons qualified to serve without distinction as to race or color. In order to be qualified a person must be:

- a) A citizen of the State, over twenty-one years of age with two years' residence in the Parish,
- b) Able to read and write the English language,
- c) Not charged with any offense or convicted of a felony,
- d) Of well known good character and standing in the community.<sup>10</sup>

The fact that approximately one-half of the Parish's population were negroes demonstrates that there could have been no lack of colored residents over twenty-one years of age.

It appears from the 1930 census that 70 per cent of the negro population of the Parish was literate, and the County Superintendent of Schools testified that fully two thousand five hundred (83 per cent), of the Parish's negro population estimated by him at only three thousand, were able to read and write. Petitioner's evidence established beyond question that the majority of the negro population could read and write, and, in this respect, were eligible under the statute for selection as jurymen.

There is no evidence on which even an inference can be based that any appreciable number of the otherwise qualified negroes in the Parish were disqualified for selection because of bad character or criminal records.

We conclude that the exclusion of negroes from jury service was not due to their failure to possess the statutory qualifications.

The general venire box for the Parish in which petitioner was tried was required<sup>11</sup>—under Louisiana law—to contain a list of three hundred names selected by Jury Commissioners appointed by the District Judge, and this list had to be supplemented from time to time so as to maintain the required three hundred names. Although Petit Jurors are drawn from the general venire box after the names have been well mixed,<sup>12</sup> the law provides<sup>13</sup> that “the com-

<sup>10</sup> Louisiana Code of Criminal Procedure, *supra*, Title XVIII, c. 1.

<sup>11</sup> See note 3, *supra*.

<sup>12</sup> Louisiana Code of Criminal Procedure, *supra*, Title XVIII, c. 2, Art. 181.

<sup>13</sup> *Id.*, Art. 180.



mission shall select . . . [from the general venire list] the names of twenty citizens, possessing the qualifications of grand jurors, . . .” (Italics supplied.) The twenty names out of which the challenged Grand Jury of twelve was drawn, actually were the first twenty names on a new list of fifty names supplied—on the day the Grand Jury List was selected—by the Jury Commission as a “supplement” to the general venire of three hundred. Thus, if colored citizens had been named on the general venire, they apparently were not considered, because the Commission went no further than the first twenty names on the supplemental list which itself contained no names of negroes. Furthermore, the uncontradicted evidence on the motion to quash showed that no negro had ever been selected for Grand Jury service in the Parish within the memory of any of the witnesses who testified on that point.

The testimony introduced by petitioner on his motion to quash created a strong *prima facie* showing that negroes had been systematically excluded—because of race—from the Grand Jury and the venire from which it was selected. Such an exclusion is a denial of equal protection of the laws, contrary to the Federal Constitution—the supreme law of the land.<sup>14</sup> “The fact that the testimony . . . was not challenged by evidence appropriately direct, cannot be brushed aside.”<sup>15</sup> Had there been evidence obtainable to contradict and disprove the testimony offered by petitioner, it cannot be assumed that the State would have refrained from introducing it. The Jury Commissioners, appointed by the District Judge, were not produced as witnesses by the State. The trial judge, who had appointed the Commission, listening to the evidence and aided by a familiarity with conditions in the Parish of many years’ standing, as judge, prosecutor and practicing attorney, concluded that negroes had been excluded from Jury service because of their race, and ordered the venire quashed and the box purged and refilled. Our examination of the evidence convinces us that the bill of exceptions which he signed correctly stated that petitioner “did prove at the trial of said motion to Quash that negroes as persons of color had been purposely excluded from the Grand Jury Venire and Panel which returned said indictment against . . . [petitioner] on account of their color and race, . . .”

<sup>14</sup> Neal v. Delaware, *supra*, 397; Norris v. Alabama, *supra*, 591 Hale v. Ky., *supra*, 616.

<sup>15</sup> Norris v. Alabama, *supra*, 594, 595.



Principles which forbid discrimination in the selection of Petit Juries also govern the selection of Grand Juries. "It is a right to which every colored man is entitled, that, in the selection of Jurors to pass upon his life, liberty, or property, there shall be no exclusion of his race, and no discrimination against them because of their color."<sup>16</sup> This record requires the holding that the court below was in error both in affirming the conviction of petitioner and in failing to hold that the indictment against him should have been quashed. The cause is reversed and remanded to the Supreme Court of Louisiana.

*Reversed.*

A true copy.


Test:

*Clerk, Supreme Court, U. S.*

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<sup>16</sup> *Virginia v. Rives, supra*, 322-3.

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